Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No._____

In the

SUPREME COURT OF THE UNITED STATES

DR. JULIA McCAIN LAMPKIN-ASAM

Petitioner

vs.

VOLUSIA COUNTY SCHOOL BOARD, et. al.

Respondents

On Petition for Writ of Certiorari

U.S. Court of Appeals, Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

Julia McCain Lampkin-Asam, Ph.D.,J.D., Pro Se
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QUESTIONS PRESENTED

I. Whether the Honorable Supreme Court of the United States has jurisdiction to review the instant case as a Petition for Writ of Certiorari under 28 U.S.C., 1254(1) because the U.S.Court of Appeals, Eleventh Circuit (07-12704BB) by affirming apparently never read the first three (3) pages of the 2nd Amended Complaint that was in the record, which clearly showed that the Federal Rules of Civil Procedure Rule 8(a)2 was correctly written because of the complexity of the controversy of false Statements (See Statement of Facts - Exhibit I1a, quoted in pertinent parts probably not read by U.S. Court of Appeals because one volume of exhibits was not returned to the lower court, [see Appendix F), created by Mr. Mark Corruthers since the Volusia County School Board through its officials, Chairman of the Board, Judy Anderson, Dr. Margaret A. Smith, Superintendent, and Mr. Mark Corruthers, Assistant Principal of Deltona Middle School failed to retract the false, defamatory, libelous per se, and stigmatizing phantom statements in the Exhibit I1a after all the Defendants named above as Defendants in the Volusia County School Board officials were served with Notice according to Florida Statute 770.01. Mr. M. Hood lawyer at the time was also served with Notice according to F.S 770.01 but the stigma plus statements remained in a public record, Dr. Lampkin-Asam's teacher Personnel file,which was review by the Press [See Exhibit E which was quoted in the Appendix "E" , showing that the false information was published.]

investigate the incident before writing the said false statements in Exhibit 11a which would permanently damage Dr. Lampkin-Asam as a teacher or in obtaining any more Cancer Research grants when she is also a Cancer Scientist and the original developer of the Model Lymphomas in mice used in different cancer labs of the world and trained at the National Cancer Institute, Leukemia Study Section, with her Doctors Dissertation major in oncology at George Washington University for Ph.D.) being on development of the model lymphomas which were chosen by the National Cancer Institute as a model lymphoma. Dr. Lampkin-Asam has two lymphomas named after her that are mutant lymphomas, JL1161 and JL762 -- JL stands for Julia Lampkin-- which were induced by DNA and RNA respectively. See Pattern 03,574,828 by Dr. Lampkin-Asam (formerly Dr. Lampkin-Hibbard due to marriage) with the title of "Method of Obtaining Anti-lymphoma Antibodies" See pp. 1 and 2 for the development of lymphomas from DNA and RNA to produce mutant proteins used as vaccines to prevent lymphomas. I was working as a substitute teacher at Volusia County School Board to obrain money to pay for publication of what should be done in the future to produce a safe vaccine against lymphomas because at that time I was 74 years old and I wanted to write some of the cancer research that should be done in case I should die before I had the opportunity to do it myself.]

II. Whether, by the U.S. Court of Appeals, 11th Circuit holding F. S., state statute, 119,011(1), a public record, <u>invalid snd repugnant to the U.S. Constitutional Amendments, One, Fifth and Fourteenth as well as 42 U.S.C. Section 1983</u>

when the Hon. Judges of the U.S. Court of Appeals, 11thCircuit erroneously ruled Affirmed because one volume of Exhibits was missing when the record was sent back from the U.S. Court of Appeals is questionable if the instant case was properly reviewed due to the complexity of the facts the stigmatizing phantom teacher's evaluation which he sent to the Personnel Office of Volusia County School Board for Dr. Lampkin-Asam's teacher's file, a public record under Florida Statute 119.011(1)1, state statute invalid and repugnant to the 5th and 14th Amendments to the U.S. Constitution when the document (I1a), a public record, against Dr. Lampkin-Asam because Mr. Corruthers was illegally attempting to cover- up a malignant crime of felony in his school. See Statement of Case.

Question Presented has clearly shown that Dr. Lampkin-Asam has clearly met the requirements of F. Rules of Civ. Procedure in the Rule 8 (a) 2 as to law and facts.

"Rule 8(a)(2) states:
"(2) a short and plain statement of the claim showing that pleader is entitled to relief,"...

See Friedlander v. Nims, 755 F. 2d 810 which states,

> "A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that plaintiff can prove no set of facts in support of his claims which would entitled him to relief. Fed. Rules Civ. Proc. Rule 12(b)6 28 U.S.C.A.

The false statements in Exhibit 11a are:. "Unsatisfactory performance of duties" for 4 days when incident happened the 3rd day and the 4th day Dr. Lampkin-Asam was transferred to the 7th grade.

III. Whether the Honorable U.S. Court of Appeals, 11th Circuit made gross error when claiming on p. 5 that "We review de novo" when the instant case was not reviewed on its merits and the Hon. Judge Presnell abused his authority according to F. Rules of Civil Procedure, Rule 12 e (Quote in Appendix B on p. 3 in a footnote in Final order May 31,2007 by Hon. Judge Presnell and mentioned by the Hon. Judges on p. 5 of the opinion of the Honorable U.S. Court of Appeals 11th Cir., it is questionable whether Rule 12 (e) is invalid and repugnant to the U.S. Constitutional Amendments, Fifth and Fourteenth and 42 U.S.C. Section 1983 because due process as to WRONGFUL TERMINATION was committed by Dr. Margaret A. Smith Superintendent and official of the Volusia County School Board Defendant.

The jurisdiction in the federal court comes under 42 U.S.C. Section 1983 as found in Monell v. Department of Social Services of the City of New York, 436 U.S. 658, L. ED. 2d 611, 58 S. Ct. 2018 (1978) which held that local governments, municipals corporations, and school boards (Emphasis added) were "persons" subject to liability under Section 1983.

Also, see Brandon v. Holt, 105 S. Ct. 873 (1985) which held that a suit against a municipal official capacity is tantamount (Emphasis added) to suit against municipality.

The jurisdiction of this federal court is also under the 14th Amendment of the U.S. Constitution for lack of due process and violation of Dr. Lampkin-Asam's rights to life, liberty or property."

IV Whether Hon. Judge Presnell and Hon.U.S. Court of Appeals, 11th Circuit abused Federal Rules of Civil Procedure 12(e) and see that
Hon. Judge Presnell in Appendix G stated,

> "The Defendants need not respond to that Pleading {Second Amended Complaint] ... until directed to do so by this Court " and

U.S. Court of Appeals. 11th Circuit falsely claimed case was reviewed de novo; therefore, Dr. Lampkin-Asam's rights under the 5th and 14th Amendments of the U.S. Constitution as to due process of life, liberty, or property were violated.

V. Whether Mr. Corruthers abused Amendment One (1) to the U.S. Constititution by fabricating a teacher's evaluation that he knew would become a public record (F.S. 119.011(1) repugnant and infringing on Dr. Lampkin-Asam constitutional rights under the First, Fifth and Fourteenth Amendments to the U.S. Constitution that would stigmatize Dr. Lampkin-Asam severely for employment any place [SigmsaPlus elements were met, see p. the Friedlander v. Nims] without even investigating the incident since he wrote the false phantom teacher's evaluation the same day he was noticed of the incident.?

VI. Whether the U.S. Court of Appeals in losing one bound copy of three bound exhibits and at the same time denying an Addendum of said exhibits just because Asam wrote an index to help the Hon. Judges to find the exhibits with tabs and sent a

stamped copy back to Asam since the Motion... was denied Oct. 23, 1007 with a name not typed on the denying of motion because the signature got smaller as written causing a violation of Dr. Lmpkin-Asam's constitutional rights under the First, Fifth, and Fourteenth Amendments to the U.S. Constitution.

VII a. Whether

Mississippi law by Appellate Court, Mississippi Supreme Court law is inconsistent concerning a person working on an hourly basis as a substitute teacher being wrongfully terminated without due process of life, liberty, or property as to the Fifth Amendment to U. S. Constitution when the administrator, Assistant Principal of Deltona Middle School, Mr. Mark Corruther, acting as an official of the Volusia County School Board committed a criminal act by covering-up a crime of felony by a 13-old student with a weapon hitting Dr. Lampkin-Asam, a substitute teacher, in the back of her head while she was teaching math at Deltona Middle School under the Control of Volusia County School Board.

See Solomon v. Walgreen Co., 975 F. 2d 1086,1089, (5th Cir.) 1992.

> "In the absence of employment contract, the Mississippi Supreme Court created two exceptions to this long-standing rule on employee could have a cause of action for wrongful termination if he is fired, (1) refuseing to commit an illegal act or (2) or reporting his employer's illegal act."

In the instant case Dr. Lampkin-Asam reporting the illegal act of Mr. Corruthers not doing his duty of reporting a crime of felony with his illegal act to cover-up violence in his school.

VII b. Whether the two exceptions shown in the Mississippi Supreme Court with the 5th Circuit are inconsistent with other circuits, especially if inconsistent with the 11th circuit. Reason important because a number of administrators are taken the position to protect the young criminals who are hurting and killing students, teachers, and administrators across the U.S. See #2. reason for granting this writ because protecting a known teenager who has committed a felony is a crime and the #2 exception in the Solomon case should be the law in 2008 especially since as an example, I had AN UNBLEMISHED TEACHING RECORD AT THE Volusia County School Board teaching, from 2001 to August 25, 2005 the last day I worked before I was hit in the back of my head by a student with a weapon and the student, a 13 year-old unprovoked. See Appendix E.

VIII. **Whether the Hon. U.S. Court of Appeals is using the wrong standard of review for affirming Not considering Dr. Lampkin-Asam as a Pro Se when she has BEEN PERMANETLY DAMAGED IN THE HEAD AS A VICTIM OF A VIOLENT CRIME BY A STUDENT HITTING HER IN THE HEAD WITH A WEAPON - METAL WHILE SHE WAS TEACHING AND STILL HAS HER HEAD SWOLLEN SINCE 8/24/05 WITH A CONTINUOUS HEADACHE AND AS STATED in**

the Statement of the Case other damages caused by head injury. And these damages were documented in exhibits which the court loss (See Appendix F) and also denied the motion.. For Addendum to the Reply brief which had an index which had been written for exhibits from the lower court Further Dr. Lampkin-Asam did not violate Rule 8(a)(2) (See Appendix C).

II. LIST OF PARTIES:

Dr. Julia McCain Lampkin-Asam,Ph.D. J.D.,Pro Se

Petitioner

vs.

Volusia County School Board, Judy Anderson Chairman and Dr. Al Williams. Chairman, Volusia County School Board, Dr. Margaret A. Smith, Superintendent, Volusia County School Board , Assistant Principal, Tamara Wenzel (Gaines), Smith, Hood, Perkins, Loucks, Stout, Bigman, Lane & Brock, PA. Dr. Michael Gebel, Dr. Bruce Hoffen, USIS, United Self Insured Services, CEO, Sam Boone, and Suzanne Evans, RN.

Respondents

Supreme Court of the United States Corporate Disclosure Statement

USIS,Inc., CEO Sam Boone , Respondent

Brown & Brown Inc. Parent Corporation of USIS,Inc, Respondent.
[Publically traded under ticker symbol BRO]
Volusia County School Board, Respondent
USIS, United Self Insured Services

Respondent

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V. JURISDICTION:

Jurisdiction to the Supreme Court of the United States F.S. 1254(1) - See Appendix D.

The date of the final decision of the U. S. Court of Appeals, 11th Circuit, is January 9, 2008. The instant Petition for Writ of Certiorari is timely filed within 90 days. See Appendix A.

CONSTITUTIONBAL AND STATUTORY PROVISIONS INVOLVED: See Lists and APPENDIX D for verbatim.

United States Constitution, Amendment I
United States Constitution, Amendment V
United States Constitution, Amendment XIV
United States Constitution, Amendment VII

FEDERAL STATUTES (See Appendix D.)

42 U.S.C. Section 1983
28 U.S.C. Section 1343(3)
28 U.S.C. Section 2106
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FLORIDA STATUTES (See Appendix D.)

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F.S. 286.011

STATEMENT OF THE CASE

Dr. Julia McCain Lampkin-Asam was working as a Substitute Teacher on August 24. 2005, when a 13 year-old student who had been absent returned to the class after being in detention but Dr. Lampkin-Asam was not noticed by the Assistant Principal that a bad behavior student would be returning to the 8th grade math class. While I was teaching and explaining how to do graphs which was the lesson plans the regular teacher wished me to teach, the student hit me with some type of hard object which caused me to start falling towards the floor and I fell into a chair but I did not personally see the student since he was behind me. No teacher can control a student that they cannot see. The problem was there were approximately 30 students in a crowded small portable classroom and the teacher's desk was in the back of the room so I had to go to the front of the room to be near the board so that I could teach the class. If the desk had been in the front of the room which is the best way to have the furniture in a classroom, no student would have been able to go behind a teacher in her desk. It is the duty of an Assistant Principal to see if the furniture in a classroom is set up for safety; a substitute teacher is not suppose to rearrange where the teacher's desk is located.

See Appendix E for Orlando Sentinel, dated November 1, 2005, about the controversy that Mr. Corruthers caused by writing a phantom teacher's evaluation, trying to cover-up a malignant violent

felony crime by a 13-year-old student in the classroom that was unprovoked. The incident happened all of a sudden so no student had time to warn me that a student was sneaking up behind me because no one suspected a student to hit me in the back of my head so hard that I would start falling. I was told that the student left out of the door after it happened but I was hit so hard I did not know at the time what had happened and did not see the student. The Deltona Middle School had been in the newspaper about bad gangs and the other students were scared to be witnesses. However, the next day one of the students told me his first name was David. The sheriff's office number was 05 31030 and the sheriff's office stated it was a "Simple battery" and his first name is David (last name is in record but not suppose to name juveniles) and he is 13 years old and he does have a first name David, according to sheriff's report, which is filed in Deland, Florida.

Mr. Corruthers instead of signing the incident report which he was suppose to sign within 24 hours after an injury, wrote and faxed the same day he was noticed of the incident August 25, 2005, Exhibit 11a, attempting to blame the teacher as to what happened when he did not come into the classroom to observe the teaching of Dr.Lampkin-Asam who was a Rank I teacher since she had received a teaching certificate from the Department of Education from the State of Florida. Also, she was certified in administration and supervision since she had taken a number of educational courses from the University of South Florida and

Dr. Lamplin-Asam knew what the Assistant Principal was suppose to do. Mr. Corruthers was suppose to report the felony to the sheriff. Mr. Corruthers did not report the felony and failed to investigate the violent crime in his school before he wrote Exhibit 11a which stated "Unsatisfactory performance of duties" and "Lack of control of student" Mr. Corruthers made these false statements to cover up the felony crime in Deltona Middle School and these statements were absolutely false making these false, defamatory libelous, and stigmatizing statements in a PHANDOM teacher' evaluation. Mr. Corruthers was committing a crime by trying to protect a teenage criminal from the law enforcement. Dr. Asam reported the felony crime by the student on 9/14/05 and the next day, 9/15/05, Dr. Lampkin-Asam was wrongfully terminated, without a hearing or knowledge she was terminated since the doctors had ordered her not to report to duty until seen by a neurologist and cardiologist because a student hit her in the back of head which caused her to have permanent damages to her head and body. Dr. Lampkin-Asam still has a swollen head at the time of writing this Writ, April 2008. Dr. Lampkin-Asam has a permanent dent in her head and still has the headache and nose bleeds from the incident because she has not been treated medically properly because the Volusia County School Board has not yet paid for the first visit to the Emergency room of the hospital which was necessary on 8/26/05. The nurse Ms. Suzanne

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Evans did not schedule Dr. Lampkin-Asam to see a neurologist until 11/29/05.

Dr. M. Gebel on November 29,2005 wrote a prescription for a MRI with a diagnosis of "HEAD TRAUMA", Exhibit P. Dr. Gebel also gave Dr. Lampkin-Asam a 55% disability at that time, Exhibit X4. However, according to the nurse, Ms. Evans who authorized Dr. Gebel to be paid, Dr. Gebel reduced the 55% to 0% and return to full duty without Dr. Gebel seeing Dr. Lampkin-Asam again and the report was illegally changed to the date 11/29/05 as this date was stated in Exhibit Y1 by Ms. Evans. Therefore, with the change by Dr. Gebel after Ms. Evans, the nurse had him to fill out some papers when she authorizes Dr. Gebel to be paid, Dr. Gebel made an inconsistant statement when his original diagnosis was Head trauma which has been confirmed in the hospital, a concussion in Exhibit O. At that time Dr. Lampkin-Asam was suppose to have a cardiologist to also state return for duty but as of April 2008, no cardiologist has recommended to return to work duty. At the date of Ms. Evans letter, 1/6/06 giving notice of Dr. Gebel's change to full duty without seeing his patient, Dr. Lampkin- Asam again.

Dr. Lampkin-Asam did not know that she had been wrongfully terminated on 9/15/05 the day after she had reported the crime of a felony at Deltona Middle school without any due process or notice of wrongful termination which was a violation of the rights of Dr. Lampkin-Asam's U. S Constitutional rights of life, liberty or property under the 5th and 14th Amendments to U.S. Constitution by Volusia County School Board who paid

her to be a substitute teacher when Corruthers actually was committing a crime by protecting a teenage felony criminal. See Solomon v. Walgreen Co., 975 F. 2d 1086,1085, (5th Cir. 1992). Volusia County School Board violated 42 U.S.C. Section 1983 for the wrongful termination and the criminal cover-up by Mr. Corruthers an official agent of the Volusia County School Board. See Exhibit 11a the false, defamatory, libelous and stigmatizing phantom teacher evaluation of Dr. Lampkin-Asam's Law on Volusia County School Board as a proper Defendant and the officials responsible for Mr. Corruthers illegal and violation of civil rights of Dr. Lampkin-Asam as a substitute teacher that according to the 5th Cir the Solomon v. Walgreen Co. case applies to a substitute teacher with a hourly pay who has Ph.D. with a teaching certificate and other qualifications to teach and experience in teaching in the high school and college level, University of Tampa extension at Homestead Air Force base from 1967 to 1974 should not be mistreated because the Volusia County School Board does not wish to pay for the damages caused while she was teaching. The federal case is not the workers' compensation case in which Ms. Wenzel Gaines is also the lawyer and has made unnecessary delay and cut off illegally Dr. Lampkin-Asam's compensation for WC on 1/9/2006 because she was in conspiracy with Ms. Evans and Dr. Gebel who changed his medical records as stated above since according to an affidavit that Mr. Hood sent to Dr. Asam that Ms. Wenzel (Gaines) is the Administrator for USIS. Exhibit A was in the record below.

After Dr. Lampkin-Asam saw a neurologist in 2008, it was determined that she had residuals from the incident of the following: Post traumatic headache, Post concussion syndrome, Cranial syndrome, Occipital neuralgia, and Post traumatic Vestibuliopathy. Dr. Asam due to head injury walks with cane since she has loss balance. She fell first face into concrete on May 23, 2006 because of loss of balance. She has loss control of her bladder because of the damages to her head. Dr. Lampkin-Asam had a heart attack known as MI on 8/26/05 while an EKG was on because she had a concussion. She also had atrial fibrillation of 137 beats per minute on 8/26/05. On 10/4/05 she still had atrial fibrillation, closed head injury, and memory disturbance. See Exhibit H. In a cath test of her heart she had 50% block of the proximal right coronary artery because of the incident. See Exhibit U3b.

On 8/24/05 Dr. Asam had no heart or concussion before and none of the other technical medical name residuals mentioned because I was hit in the back of the head with a weapon.

The Volusia County School Board and their officials, Named defendants, were given notice of F.S. 770.01 to retract the false, defamatory, libelous, and stigmatizing statements made by Mr. Mark Corruthers in Exhibit I1a to cover-up the crime by a teenage 13 year-old student with a weapon. The school with all those gangs should have a metal detector since no type of weapon should be allowed in any of the schools. Mr. Hood

who was the attorney at the time for the Volusia County School Board, was personally served by me and he personally signed for the notice and ignored the notice in May 3, 2006. If the Volusia County School Board had retracted the false and stigmatizing statements there would have been no lawsuit..

There were irregularities in the U.S. Court of Appeals, 11th Circuit.

Someone changed the style of the case in the Clerk's office and took the word BOARD off the Volusia County School Board to read Volusia County School when no school is named Volusia County School.

The reason the word Board should have been left on the true name of the defendant Volusia County School Board is because of the law available on 42 U.S.C. Section 1983.

Jurisdiction in Federal Court on p. 4 of Amended Complaint: importance of the U.S. Court of Appeals, 11th Circuit should not have deleted the word Board as shown above for the Volusia County School Board, which means Dr. Lampkin-Asam did have sets of facts to justify relief and should have not been dismissed by the lower court or AFFIRMED by the U.S. Court of Appeals, 11th Circuit. The jurisdiction in the federal court comes under 42 U.S.C. Section 1983 as found in Monell v. Department of Social Services of the City of New York, 436 U.S. 658, L. ED. 2d 611, 58 S. Ct. 2018 (1978) which held that local governments, municipals corporations, and school boards (Emphasis added) were "persons" subject to liability under Section 1983.

Also, see Brandon v. Holt, 105 S. Ct. 873 (1985) which held that a suit against a municipal official capacity is tantamount (Emphasis added) to suit against municipality.

The jurisdiction of this federal court is also under the 14th Amendment of the U.S. Constitution for lack of due process and violation of Dr. Lampkin-Asam's rights to life, liberty or property."

Law for Volusia County School Board and through officials of Volusia County School Board, Dr. Margaret A. Smith and Mark Corruthers."

From a reading of Appendix A the January 9, 2008 unpublished opinion it appears that something happened to the Exhibits that were not read in particular since there were 3 bound copies of Exhibits filed with the Second Amended Complaint; however when the record was sent back to the U.S. District Court only 2 volumes were sent back. The instant case was clearly a documented case with signed documents by doctors, hospitals and other officials by the Volusia County School Board.

There were filed three (3) bound volumes of Exhibits on May 3, 2007 with the Second Amended Complaint since a documentary Pleading.

There is no excuse for missing documents in a court. This is the second time in my life that I have personally seen documents missing in a court; see below Dr. Asam was wrongfully disbarred because someone removed a 26-page answer timely filed because the Hon. Judge Jones deemed Dr. Asam disbarred in the Supreme Court of Alabama because of political reasons.

On September 18, 1992 I was personally allowed to practice in the Supreme Court of the United States. I did my best to help my clients. I was the first woman to run for Circuit Judge in Tuscaloosa Count as Democratic candidate in 1992 and later in 1994 and was about to run for the Senate when my opponent and his friends had me wrongfully disbarred because after appealing the case with the Alabama State Bar the Hon. Justice Jones deemed me disbarred since he did not find a 26-page answer to the trumped up charges by a friend to my opponent in the Alabama Bar. (See Asam v. Alabama State Bar, 675 2d 866, 874 (Ala. 1996).

At the same time Hon. Jones was writing for the Supreme Court of Alabama he did have construictive notice of the said timely filed 26-page, answer which was changed in the transcript to Exhibit R-1. I did not know about the Alabama State Bar connected with the machine in Alabama who determine who runs for office. I am mentioning about the Alabama State Bar because Mr. Hood, Attorney for the Volusia County School Board brought the disbarment up in the U.S. District Court but failed to mention about the deeming disbarment trying to smear my reputation to the judge of U.S. District Court in Orlando. Therefore, I showed the actual proof that the said answer was filed as Exhibit J with the stamp of timely filed in the Alabama State Bar and I had a right to bring it up since the adversary lawyer, Mr. Hood, was trying to smear me when I was disbarred for political reasons and the said 26-page answer was missing (inside job) in the Supreme Court of Alabama. See Asam v. Alabama State Bar, 675 So.

See Order dated 4/16/07 p. 2 and 3. Document 82, which states,

> "If she so desires, the Plaintiff will be provided one final chance to draft an amended complaint that satisfies the requirements of the Federal Rules of Civil procedure. The Plainbtiff may file a second amended complaint not more than 20 days from the entry of this order. The Defendants need not respond to that pleading, or to any motion filed in the interim, until directed do so by this Court."
>
> DONE AND ORDERED in Chambers. Orlando, Florida on April 16,2007."
>
> /s/ Gregory Presnell
> GREGORY PRESNELL
> UNITED STATES DISTRICT JUDGE

One volume of Exhibits that documented the Second Amended Complaint disappeared in the U.S. Court of Appeals 11th Circuit since only two (2) volumes of exhibits were returned to the U. S. District Court. This means that a de novo review could not have been properly completed because there was no Shotgun Pleading since documentary pleading. See APPENDIX F.

Amended Complaint seems to have not been read whoever wrote the opinion of the U.S. Court of Appeals. 11th Circuit.

See Motes v. Myers, 810 F. 2d 855,

> "Civil rights plaintiff must establish both deprivation of right secured by the United States Constitution or federal laws and by defendant under color of state laws. 42 U.S.C. Section 1983."

Dr. Lampkin-Asam has met both of these elements. See first three pages which are a Summary of the Count I and 6 claims against the Volusia County School Board, a public state school Board

Corruthers wrote a phantom teacher's evaluation when he never came into her classroom for any teacher evaluation to cover-up for a malignant violent crime of felony by a student unprovoked in Deltona Middle School one of the Schools controlled by Volusia County School Board for whom Dr. Lampkin-Asam worked for. See Exhibit IIa the phantom teacher evaluation which was false, defamatory, libelous, and stigmatizing designed to prevent Dr. Lampkin-Asam to never receive a job again or cancer grant again when she is a Cancer scientist with 31 lymphoma and cancer publications in medical journals and books and the developer of the model P1798 lymphomas Sensitive and Resistant to Steroids, now used in many laboratories in the world, when she had a National Foundation Pre-doctoral Fellowship at the National Cancer Institute through the George Washington University where she obtained her Ph.D. in Oncology for her Dissertation, with majors in Biochemistry, Physiology, Pharmacology and Endocrinology. I was working as a substitute teacher to have money to publish on Cancer Research that should be done in the future since money is short for research when the war is continued. Now the Volusia County School Board has been blocking cancer research since when I was hurt-- one of medical records said I had memory disturbance which happened to be on radiation protection which I was writing at home before I was hit in the back of my head on August 24, 2005 at school.

Judge Presnell stated on p. 2 of his order on pp. 2 and 3 of his order in document 88:

> "Under the Federal Rules of Civil Procedure, a defendant faced with a shotgun complaint is not expected to frame a responsive pleading. Rather, the defendant is expected to move, pursuant to Rule 12(e) to require The plaintiff to file a more definite statement."

See Friedlander v. Nims, 755 F. 2d 810 which states,

> "A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that plaintiff can prove no set of facts in support of his claims which would entitled him to relief. Fed. Rules Civ. Proc. Rule 12(b)6 28 U.S.C.A.

U.S. Court of Appeals, 11th Circuit, stated in same case, p. 7 in final opinion January 9, 2008, "Friedlander v.Nims, 766 F. 2d 810, 811, 813-14 (11th Cir. 1985) concluding that dismissal with prejudice was appropriate where the district court gave "specific and repeated warnings." which went ignored by the plaintiff, that the complaint required amendment).

The point is the Plaintiff did make amendments both times and apparently the Judge of the lower court had already planned to rule in his court "sua sponte, in his first sentence of his Order May 31, 2007 when he told the Defendant attorneys not to respond as stated above. The Second Amended Complaint was not a Shotgun Pleading since the

pleading was documented with Exhibits and there were sets of facts showing relief should have been granted and case should have not been dismissed.

In my opinion, the lower court judge showed bias towards the plaintiff when he told the Defendant attorneys not to respond to the Second Amended complaint so the judge could rule "sua sponte, thus, violating Dr. Lamplin-Asam's right to a jury trial. See right to a jury trial in Amendment VII.

The U.S. Court of Appeals, 11th Circuit stated "We review de novo the district court's order dismissing Lampkin-Asam's complaint.". is a false statement in the instant case.

One volume of Exhibits that documented the Second Amended Complaint disappeared in the U.S. Court of Appeals 11th Circuit since only two (2) volumes of exhibits were returned to the U. S. District Court. This means that a de novo review could not have been properly completed because there was no Shotgun Pleading since documentary pleading. See APPENDIX F.

The doctors recommended to be off duty until neurologist and cardiologist stated I was able to go back to work. Cardiologist has not recommended to return to work yet. As to the first neurologist, Dr. Gebel see Count 3 of Amended Complaint. Lampkin-Asam's head is still swollen and she always has a headache. An expert neurologist found that Dr. Lampkin-Asam now has Post traumatic headache, Post concussion syndrome, Cranial Syndrome, Occipital neuralgia, and Post traumatic Vestibuliopathy.

The instant case was not reviewed de novo because Dr. Lampkin-Asam was a victim of a crime, a felony, and sustained permanent damages to her head and body; therefore, she should be reviewed as a Pro Se since she is a wounded lawyer. See Appendix C and note that Dr. Lampkin-Asam did meet the requirements of Federal Rule of Civil Procedure 8(a)2 because the first 3 pages of the Second Amended Complaint are a summary of the Count and claims against the Volusia County School Board. It was not incorrect to start out with Volusia County School Board is liable since the Board is responsible for the acts of its officials - the named defendants. See Monell and Brandon cited above.

See Valerama v. United States of America, 417 F. 3d 1189, (11th Cir. 1005, which states about due process under the 5th Amendment to the U.S. Constitution:

> "Individuals whose property interest are at stake due to government actions are entitled. under the due process clause, to notice of the proceedings and an opportunity to be heard." U.S.C.A. Const. Amend. 5."
>
> ..."The notice necessary to satisfy due process , when individual property interest are at stake, due to government actions, requires only the interested persons to be given notice, reasonably calculated under all the circumstances, to apprise interested Parties of the pendency of the action and afford them the opportunity to present their objections. U.S.C.A. Const. Amend 5"

found a concussion, and automatically put a person with a concussion on a monitor, EKG, and Dr. Lampkin-Asam had a heart attack while on the EKG known as a MI which printed right on the EKG and showed heart beat of 137 beat per minute and is known as atrial fibrillation as well as pvc's and other heart problems. The Volusia County School Board has not yet paid this hospital bill when Ms. Wenzel (Gaines) is the administrator for the USIS, insurance company for the school and is defendant and attorney for the Volusia County School Board. The date of the first ER Hospital bill is 8/26/05. The hospital record confirmed on 8/26/05 that Dr. Lampkin-Asam's face was swollen with the left eye smaller than the right eye. Dr. Lampkin-Asam presented picture before the date with nothing wrong with her eyes. She did not have any heart problems or a concussion before being hit in the head. Picture 1 was in the files presented in the U.S. District Court and the U.S. Court of Appeals, 11th Circuit.

The U.S. C of Appeals stated "alledged" which is false when they were supposed to have exhibits and pictures from the lower court that show damages. One volume missing when sent to lower court only 2 volumes back to lower court. See Appendix F.

A cardiologist after a cath test stated Dr. Lampkin-Asam had 50% remaining in right proximal coronary artery of the heart after 8/24/05.

On 9/14/2005 Dr. Lampkin-Asam reported the crime of felony that occurred on August 24, 2005 to the Sheriff that called the incident "Simple Battery" The next day, 9/15/2005 (See Exhibit A1a) Dr. Lampkin-Asam was wrongfully terminated as a Substitute teacher because she was hit in the back of her head by student with a weapon while teaching. See Statement of Case. School retaliated by wrongful termination after Dr. Lampkin-Asam reported an illegal act by Mr. Corruthers trying to COVER-UP a crime of felony of a student intentionally hitting a teacher with a weapon (hard object-metal) in the back of her head while she was teaching to cause her to immediately start falling towards the floor and she fell into a chair. See sheriff record 05 -31030 filed 9/14/05 in Deland, Florida.

See Solomon v. Walgreen Co., 975 F. 2d 1086,1089, (5th Cir.) 1992.

> "In the absence of employment contract, the Mississippi Supreme Court created two exceptions to this long standing rule on employee could have a cause of action for wrongful termination if he is fired, (1) refuseing to commit an illegal act or (2) or reporting his employer's illegal act."

In the instant case Dr. Lampkin-Asam reporting the illegal act of Mr. Corruthers not doing his duty of reporting a crime of felony with his illegal act to cover-up violence in his school.

When Mr. Corruthers was claiming four (4) days when no longer in that 8th grade but teaching in 7th grade since she was transferred. was also false statement by Mr. Corruthers, especially since incident happened only on August 24, 2005.

2. "Lacks control of student conduct" -- no letter "s" on student when Dr. Lampkin-Asam never saw the student sneaking up behind her and she can not control someone she can not see.)

See Exhibit (11a) stated on the same day of the fax by Mr. Corruthers stated: ...

> "August 25, 2005
> Julia L. Asam ...
> "It was alleged on a Substitute Teacher Incident Report submitted by Ad,minis-tration at Deltona Middle School that on dates August 22-25, 2005 [false since had been transferred to 7th grade math on August 25..2005] there was unsatisfactory performance of duties.' "
>
> "Please be advised that if any additional re-ports of unsatisfactory performance of sub-stitute teaching duties, will result in the removal of your name from the School District of Volusia County's list of approved substitute teachers."...

BEST AVAILABLE COPY

/s/ Larry Lewis
Director of Personnel Services
Personnel Services"

Cc: Mark Corruthers, Assistant Principal
Personnel File"

Mr. Corruthers was impeached with Exhibit L which showed that Dr. Lampkin-Asam was following what the regular teacher had left for lessons plans. Therefore, Mr. Corruthers not only wrote a false, defamatory, libelous per se and stigmatizing teacher's evaluation of her but also wrote a phantom teacher's evaluation because he failed to be in her classroom to observe her teaching. Mr. Corruthers being official of the Volusia County School Board according to the Law presented in Question Presented I, Dr. Lampkin-Asam met the elements in law and facts and met the procedural rule of Rule 8 (a) 2 and the U.S. Court of Appeals clearly erroneously ruled Affirmed.

Necessary to present some of the facts since one volume of exhibits was missing when the U.S. Court of Appeals return the two exhibits instead of three groups of exhibits to the U.S. District Court , Orlando Division -- see Appendix F.

Corruthers wrote the false letter (Ex 11a) 8/25/05,the document (11a) , a public record, false and showing "Stigma Plus" against Dr. Lampkin-

Gilder-Lucas v. Elmore Count Board of Educ. 399 F. Supp. 2d 1267, 2005, WL 302824, 205 Ed. Law Rep., M.D. Ala., October 2005.

"To establish that a due process was protected liberty interests was violated by stigmatizing charges made as part of public employee's nonrenewal of employment, employee must show: (1) a false statement (2) of stigmatizing nature (3) attending government employee's discharge (4) was made public [published by school when Larry Lewis made cc: of false letter by Mr. Corruthers (Exhibit I1a) to Dr. Asam's Personnel file and then the press reviewed the public record and wrote Appendix E] (5) by the governmental Employer (6) without a meaningful..."

See Federico v. Board of Educ. Of Schools of Tarrytowns, 955 F.Supp. 1997 WL, 37409, 116 Ed. Law Rep. 969, S>.D.N.Y., January 23, 1997.

On Section 1983 claim based on due process with respect to allegedly defamatory statements of school officials, Plaintiff, teacher is required to prove: that officials published stigmatizing information which is at least arguably false; and as a result of stigma, he has been foreclosed from range of other employment opportunities. U.S.C.A. Const. Amend. 14 42 ...'

See Wood v. Dollar Rent-A-Car Systems, Inc. 128 Fed. Appx. 620,2005 WL 902093., C.A. 9 (Cal.) April 20, 2005.

> "Where a plaintiff alleges that she was terminated for unlawful reasons, courts will not accept a reduction in force as the conclusory explanation for the employment's termination. Here, Wood's claim that Dollar interfered with his FMLA/CFRA rights is tied to age discrimination and retaliation ...claims...reverse and remand...wrongful Termination in violation of public policy and CUFA claims depend on age discrimination and retaliation claims ... reverse"

Mr. Corruthers false and stigmatizing statements were responsible for the wrongful termination of Dr. Lampkin-Asam after she was hit in the back of head by a student with a weapon because Mr. Corruthers attempted to cover-up the violence in the school. See Exhibits I1a and I2a.

See Brammer-Hoelter v. Twin Peaks Charter Academy, 81 F. Supp. 2d 1090, 2000 97058, 141 Ed. Law Rep. 762., D. Colo., January 25,2000.

"In order to show deprivation of liberty interest under Section 1983, public employee must show that government published false and stigmatizing information about them in connection with adverse action taken against them."

Counts 2-6 in the second amended complaint none of the defendants came under 42 U.S.C. Section 1983 as they tried to pretend to dismiss the original and first amended complaint. For the Second Amended Complaint, see Appendix G showing the Hon. Judge Presnell in his order 4/16/07ordered the Defendants not to respond to the Second Amended Complaint until he said so because he wished in advance to rule sua sponte.

The defendants as stated in Counts 2-6 of the Second Amended Complaint violated the 14th Amendment to the U.S. Constitution as to life, liberty or property.

See Austin v. Board of Ed. Of Georgetown Community Sch. Dist. No. 3 of Vermillion County, Illinois, 562 F. 2d 445., C.A. F. (Ill), September, 21 1977.

> "question whether failure to rehire was such a deprivation of liberty interest as to authorize federal court to order reinstatement and back pay, assuming that teacher was competent teacher, could not be made. Reversed and remanded."

The Solomon v. Walgreen Co. applies to Dr. Lampkin-Asam since she was on hourly pay as a Ph.D. Rank I teacher because she was 74 years of age and did not have a contract so the (2) "or reporting his employer's illegally act" of Corruthers protecting from law enforcement a teenage student criminal who intentionally hit a substitute teacher while she was teaching.

Mr. Corruthers had duty to report the felony crime but chose to create a controversy to cover-up the malignant felony in the Deltona Middle School .

The disputed facts should have been by a jury trial instead of a bias judge pretended "Shotgun Pleading" when the instant case does not fit the definition of a "Shotgun Pleading" when documented with Exhibits that disappeared in the U.S. Court of Appeals, 11th Cir. Since appeals court only returned 2 volumes of bound exhibits to U.S. District Court when there were 3 volumes of exhibits without tabs of index filed with the Second Amended Complaint. Further, the U.S. Court of Appeals did see the exhibits but sent a copy that I sent as an Addendum because I wrote a index to help the Honorable Judges of the U.S. Court to find the Exhibits but the Motion for Leave ... to file this Motion to allow the Addendum was denied and I received a stamped copy in the mail from the U.S. Court of Appeals, 11th Cir. that I sent with tabs with an index. The volume of the exhibits that is missing was bound with no Tabs on but had Exhibits that could be found without an index but I filed the Addendum since I did not know that I had to file a Motion for leave to file the Addendum which I did and it was denied and sent back to me but has the stamp of the Atlanta Court on it which I can send to the Supreme Court of the United States if a copy is requested. All the defendant's attorneys already have a copy of the indexed exhibits since I sent them a copy at the same time that I sent the copy of the said index copy to the U.S. Court of Appeals, 11th Circuit. See Appendix. F.

Another irregularity in this case is the fact of Ms. Wenzel Gaines is a Defendant as stated in Count 6 and attorney for Volusia County School Board which gave her the motive to fabricate her writing of the Appellee Brief. Ms. Wenzel Gaines pretended the instant federal case was an "industrial" accident when the case is concerned with a public school having an unsafe school without metal detectors.

Ms. Wenzel Gaines wrote the Appellee Brief in which she fabricated 11 times in the Appellee Brief stating **falsely** that the Defendants were the Appellants when they were never Appellants and including making the false statement in her conclusion of the Appellee Brief in my opinion is a pattern of activity and a violation of Rule 4.3.3 Florida Rules of Professional Conduct [a] lawyer shall not **knowingly ... make a false statement of material fact or law to a tribunal."**

The Florida Bar number is Case No. 2008-30,949(07A). Ms. Wenzel Gaines answered "I acknowledge after reviewing the answer brief, I inadvertedly referred to defendants on several occasions."...The Florida Bar did not charge Ms. Wenzel Gaines for ethics violation since the U.S. Court of Appeals ruled wrongly AFFIRMED. In my opinion Ms. Wenzel Gaines lied to the Florida Bar because she stated a lie 11 times and surely this is a pattern of lying and not just making the said lying statement several times.

The merits of this case has never been reviewed or ruled on. Further, no Defendants have answered any complaint. See Appendix what the Hon. Judge said about the Defendants not to respond to the Second Defendant Complaint. See Appendix

No de novo has been done. Dr. Lampkin-Asam who was the victim of the felony on August 24, 2005 and has been wrongfully considered at a excessively higher standard than a pro se as lawyer, when she has permanent damages to her head and body as stated above..

To Sum: the instant case should be remanded to the U.S. District Court Middle District of Florida, Orlando Division, for Trial by a Jury of Disputed Facts after the Defendants have answered the Second Amended Complaint. A different unbiased judge should be appointed for the U.S. District Courtso a fair trial by a jury of disputed facts can be completed.

VIII. REASONS FOR GRANTING THE PETITION.

See Solomon v. Walgreen Co., 975 F. 2d 1086,1089, (5th Cir.) 1992.

> "In the absence of employment contract, the Mississippi Supreme Court created two exceptions to this long standing rule on employee could have a cause of action for wrongful termination if he is fired, (1) refuseing to commit an illegal act or (2) or reporting his employer's illegal act."

In the instant case Dr. Lampkin-Asam reporting the illegal act of Mr. Corruthers not doing his duty of reporting a crime of felony with his illegal act to cover-up violence in his school.

Mississippi law by Appellate Court, Mississippi Supreme Court law is inconsistent concerning a person working on an hourly basis as a substitute teacher being wrongfully terminated without due process of life, liberty, or property as to the Fifth Amendment to U. S. Constitution when the administrator, Assistant Principal of Deltona Middle School, Mr. Mark Corruther, acting as an official of the Volusia County School Board committed a criminal act by covering-up a crime of felony by a 13-old student with a weapon hitting Dr. Lampkin-Asam, a substitute teacher, in the back of her head while she was teaching math at Deltona Middle School under the Control of Volusia County School Board.

The jurisdiction in the federal court comes under 42 U.S.C. Section 1983 as found in Monell v. Department of Social Services of the City of New

York, 436 U.S. 658, L. ED. 2d 611, 58 S. Ct. 2018 (1978) which held that local governments, municipals corporations, and school boards (Emphasis added) were "persons" subject to liability under Section 1983.

Also, see Brandon v. Holt, 105 S. Ct. 873 (1985) which held that a suit against a municipal official capacity is tantamount (Emphasis added) to suit against municipality.

The jurisdiction of this federal court is also under the 14th Amendment of the U.S. Constitution for lack of due process and violation of Dr. Lampkin-Asam's rights to life, liberty or property."

The Petitioner, Dr. Lampkin-Asam has summarized the important law because clearly the first three (3) pages of the Second Amended Complaint presented sets of facts that would justify with the law presented that the Writ should be granted and a merits brief should be allowed to be written with oral argument allowed. Also, see cases presented Motes v. Myers, 810 F. 2d 1055, (11th Cir., 1987); and Friedlander v. Nims 755 F. 2d 810, 811, 813-814, (11th Cir. 1985).

2. The instant case could be attempted murder ONE SINCE CLEARLY ACCORDING TO Sheriff record filed in Deland, Florida for the incident of August 24, 2005 since an intentional act since the student who brought a weapon to the school clearly intended to hit a teacher when he was unprovoked. The public is concerned by the killing of students, teachers and administrator both on the high school, and at universities and

now on March 14, 2008 on television and on March 15, 2008 reported in the Orlando Sentinel, that "the boy threatened to lock the cafeteria doors during one of the lunch periods and shoot everyone inside."

The three 13 year-old seventh grade students who plotted the school shooting, ... "threaten to shoot as many students as possible and then kill themselves. ..."

'called a 'plot' after one of the teens posted on the MySpace page a picture of a tombstone , satanic references and admiration for the shooters in 1999 massacre at Columbine High School in Colorado"...

From first page of Orlando Sentinel, Local and State, with title of "Cops: 3 teens plotted school shooting" with subtitle:" The 13-year-olds allegedly tried to get a gun to kill Deland Middle School students, then themselves"...

Dr. Lampkin-Asam also has personally been a substitute teacher at Deland Middle School which is under control of Volusia County School Board for whom she worked from 2001 to August 25,2005 and eaten in the cafeteria but nothing happened while she was a teacher at Deland Middle School.

CONCLUSION:

The Petition for Writ of Certiorari should be granted.

Respectfully submitted,

Julia McCain Lampkin-Asam

Date

Julia McCain Lampkin-Asam, Ph.D.,J.D., Pro Se Petitioner
Substitute teacher and Cancer Scientist
3240 Tealwood Terrace
Deltona, Florida 32725
(386) 532 6270

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 07 12704
Non Argument Calendar

D.C. Docket No. 07 00116-- ORL-31 DAB

JULIA McCAIN LAMPKIN-ASAM, Ph.D.,JD
Plaintiff-Appellant
Versus
VOLUSIA COUNTY SCHOOL BOARD
JUDY ANDERSON Chairman,
DR. AL WILLIAMS. Chairman,
Volusia County School Board,
DR. MARGARET A. SMITH, Superintendent
Volusia County School Board,
MARK CORRUTHERS, Assistant, Principal,
Deltona Middle School Board,
TAMARA E.WENZEL., Esquire ["at"] Smith,
Hood, Perkins, Loucks, Bigman, and
Brock, P.A. ["attorneys for Volusia County
School Board,"] 1a
DR. MICHAEL GEBEL, DR. BRUCE HOFFEN,
UNITED SELF INSURED SERVICES, CEO,
USIS, SUZANNE EVANS, R.N.,USIS
Defendants-Appellees

1a Tamara E. Wenzel (Gaines) was properly served as Tamara E. Wenzel, Esquire, Smith. Hood. Perkins, and firm and signed for on 1/26/07 and on p. i of Appellant Brief.

APPENDIX A

Unpublished and Stamped "Filed in U.S. Court of Appeals Eleventh Circuit January 9, 2008 Thomas K. Kahn Clerk"

Before ANDERSON, CARNES and HULL, Circuit Judges.,

PER CURIAM

Appeal from the United States District Court
For the Middle District of Florida

(January 9, 2008)

Julia McCain Lampkin-Asam appeals the district court's sue sponte dismissal of her second amended complaint for violating the command of Federal Rule of Civil Procedure 8(a)(2) that her complaint contain "a short and plain statement of the claim(s) showing that (she) is entitled to relief." Lampkin-Asam commends that her complaint complied with Rule 8 and that the district court held her to an excessively high standard, as she is a pro-se litigant.

I.

Lampkin- Asam according to her complaint, a substitute teacher, a "cancer scientist," and a former attorney.[1] In her second amended complaint which sought relief under 42 U.S.C. Section 1983, Lampkin-Asam alleged that, while she was a substitute math teacher at Deltona Middle School , a student came up behind her and hit her in the

[1] Lampkin-Asam is a former member of the Alabama State Bar. See Asam v. Alabama State Bar, 675 So. 2d 866, 878 (Ala. 1996).

back of the head with a weapon, causing permanent damages to her head and body.

She named several defendants, including (1) the Volusia County School Board; (2) Dr. Margaret Smith, the Superintendent of the School Board; (3) Tamara Wenzel, an attorney for the School Board, (4) Mark Corruthers, the assistant principal of Deltona Middle School; (5) Dr. Michael Gebel; (6) Dr. Bruce Hoffen; (7) United Self Insured Service (USIS); and Suzanne Evans a nurse with USIS. The Complaint alleged among other things; that those defendants violated her Fourteenth Amendment due process rights.

Before dismissing Lampkin-Asam's second complaint, the district court had dismissed two prior versions of the complaint for violating Rule 8.The first time, the defendants moved to dismiss the complaint, asserting that it was so full of "comprehensible allegations" that it was impossible to formulate an answer. In dismissing Lampkin-Asam 's initial complaint, the district court agree3de with the defendants, and observed that the complaint was "disjointed, repetitive, disorganized and barely comprehensible." The district court also noted that because the complaint grouped several claims under each "count" it was not possible to "decipher which claims [were] brought against which parties under which counts." The district court dismissed that complaint without prejudice, giving Lampkin-Asam twenty days to file an amended complaint.

She re-filed her complaint, adding additional "counts" and "claims" but in the district court's estimation, she again failed to comply with Rule 8.

The court characterized that first amended complaint as a "shotgun pleading." and concluded that it was still "disjointed, disorganized, repetitive and barely comprehensible." Accordingly, the district court dismissed it, giving her twenty days to exercise a "final chance" to re-plead.

Lampkin-Asam took advantage of the opportunity to plead her complaint again. Her second amended complaint contained six "counts," each comprised of various "claims. Almost every count with the phrase, "Volusia County School Board is liable", followed by a string of factual allegations. Five of the named defendants were not mentioned at all in any of the counts and claims. The complaint also included seventeen pages of numbered paragraphs, each containing scattered and sometimes inconsistent references to counts and claims presented at the beginning of the complaint. In its order addressing her second amended complaint, the district court described it as a "labyrinth of claims, counts, accusations, and repetitions." Because the court concluded that once again failed to comply with Rule 8, and because the court had warned her that her second amended complaint would be her last, it dismissed her second amended complaint with prejudice, . Lampkin-Asam appealed.

II.

We review de novo the district court's order

dismissing Lampkin-Asam's complaint. See Valderrama v. United States, 417 RF. 3d 1189.1194 (11h Cir. 2005). While a trial judge is to employ stringent standards in assessing pro se pleadings ... than would be used to judge final product of lawyers." Hepperle v. Johnton 544 F. 2d 201, 202 (5th Cir. 1976),[2] this does not permit the district court to act as counsel for a party to rewrite deficient pleadings. GIR Invs. V County . Escambia, Fla. 132 F. 3d 1359 (11th Cir. 1998); see also McNeal v. United States, 508 U.S. 106, 113, 113 S. Ct. 1980, 1984 (1993) ("We have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel.").

In fact, we have recently observed that district courts have a "supervisory obligation," under Rule 12(e), . . to sua sponte direct a plaintiff to better plead his complaint "when a shotgun complaint fails to adequately link a cause of action to its factual predicates." Wagner v. First Horizon Pharm. Corp. 464 F. 3d 1273, 1275 (11th Cir. 2006).

A complaint that fails to articulate clarity to allow the defendant to frame a responsive pleading constitutes a "shotgun pleading." Byrne v. Nezhat , 261 F. 3d 1075, 1128-29 (11th Cir 2001). Pleadings of this nature are prohibited by Rule 8(a)2), which requires a claim for relief to be "a

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2 In Bonner v. City of Prichard, 661 F. 2d 1206, 1209 (11th Cir. 1981) (en banc). We adopted as binding precedent all decisions of the former Fifth Circuit that were rendered prior to October 1, 1981.

short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2).

After our own review of Lampkin-Asam's second amended complaint, we agree with the district court that it is confusing, incoherent, and clogged with seemingly irrelevant factual allegations. In it, Lampkin-Asam alleges the same facts repeatedly, and much of it is devoted to matters entirely outside the scope of this action. Because Lampkin-Asam failed to set forth in her second amended complaint a "short and plain statement of [her] claim" showing that she was entitled to relief, it does not pass muster under Rule 8. The district court provided Lampkin-Asam with two opportunities to correct the problem, and because she failed to do so, dismissal with prejudice was appropriate.

Lampkin-Asam 's contention that the district court held her to a higher standard than a typical pro-se plaintiff because she is a former attorney is no moment. The district court gave her two

outside the scope of this action. Because Lampkin-Asam failed to set forth in her second amended complaint a "short and plain statement of [her] claim" showing that she was entitled to relief, it does not pass muster under Rule 8. The district court provided Lampkin-Asam with two opportunities to correct the problem, and because she failed to do so, dismissal with prejudice was appropriate.

Lampkin-Asam 's contention that the district court held her to a higher standard than a typical pro-se plaintiff because she is a former attorney is no moment. The district court gave her two

opportunities to amend her complaint and she faile3ed 15a to correct the deficiencies in it. Such leniency would have been sufficiency even if Lampkin-Asam was a typical pro se litigant, which she is not . Cf Frendlander v. Nims, 755 F. 2d 810-811, 813-14 (11th Cir. 1985) including that dismissal with prejudice was appropriate where the district court gave "specific repeated warnings," which went ignored by the plaintiff, that the complaint required amendment). Moreover, even if the district court had held Lampkin-Asam to a higher standard, we would not reverse. [These Hon. Judges of the U.S. Appeals Court, 11th Circuit were prejudiced to a lawyer that was working as a substitute teacher and was wounded as a victim because the Volusia County School Board did not provide safety for teachers or students because there was no metal detector to prevent weapons on school campus and this opinion appears to be written by someone who does not understand school law .] We give a "liberal" reading to pro-se filings because those litigants lack formal legal training. See GIR Ins., 132 F. 3d at 1369 ("Courts do and should show a leniency to pro-se litigants not enjoyed by those with benefit of a legal education." Lampkin-Asam, as a former attorney and person who possess formal legal training. should have been able to draft a complaint that complies with Rule 8.

AFFIRMED.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

ORLANDO DIVISION

JULIA McCAIN LAMPKIN-ASAM
Plaintiff,

vs.

Case No.6:07-cv-116-Orl-31-DAB

VOLUSIA COUNTY SCHOOL BOARD, JUDY ANDERSON, DR. MARGARET A. SMITH, TAMARA E. WENZEL, MARK, CORRUTHERS, DR. MICHAEL GEBEL, DR. BRUCE HOFFEN, UNITED SELF INSURED SERVICE , SUZANNE EVANS, AND DR. A.L WILLIAM
Defendants

ORDER

This matter comes before the Court *sua sponte.* On Januay 24, 2007, the Plaintiff , Julia McCain Lampkin-Asam ("Asam"), acting pro se filed suit against the Volusia ounty School Boardand others. (Doc. 1) Her thirty-four page complaint alledged "counts" each containing multiple claims. Doc. 1)/ On March 1, 2007, the Court dismissed the complaint on the grounds that it was "disjointed, repetitive, disorganized, and barely comprehensible." (Doc. 46 at 1). Asam was ordered to create a

more plain and coherent complaint, one that satisfied the requirements of Rulr 8 (Doc. 46 at 2).

On March 19, 2007, Asam filed an amended com-Plaint (Doc. 60). Though trimmed by several pages and rewritten, the amended complaint suffered from the same major shortcomings of its predeces-sors - I.e. that it is disjointed, repetitive. Disorganized and barely comprehensible. Now up to six counts, the amended complaint contained numerous claims interspersed with photocopied document excerpts and immaterial factural alle-gations. The Court dismissed the amended complaint as an unacceptable shotgun pleading and gave Asam one final chance to draft a complaint that satisfied the requirement of the Federal Rules of Civil Procedure (Doc. 82 at 2) .On May 3, 2007, Asam filed a second amended complaint. (Doc. 83)

II. Standards

Shotgun Pleadings

Generally speaking shotgun pleadings "are those that incorporate every antcedent allegation by reference into each sequent claim for relief or affirmative defence." Wagner v. First Horizon Pharmaceutical Corp., 464 F. 3d 1273, 1279 (11th Cir. 2006). Shotgun complaints

> invariably begin with a ling list of general al-legations, most of which are immaterial to most of the claims for relief. The general alle gations are incorporated by reference into each count of the complaint, the complaint followed by an answer that responds to each and every statement. If the trial judge does not quickly demand repleader all is lost - ex-tended and largely aimless discovery will commence and the trial court will soon be

> drowned in an unchartered sea of depositions, interrogatories, and affidavits.

Johnson Enterprise of Jacksonville, Inc. FPL Group, Inc. 162 F. 3d 1290, 1333 (11th Cir.) 1998.

> [I]t is much easier in the short term to permit shotgun pleadings - in the hope that the parties will settle their dispute - instead of intervening *sua sponte* to narrow the issues. In the long run, however, the judicial work that results from shotgun pleadings is the more time consuming than the work required up front to prevent to prevent the case from proceeding beyond the issues are reasonably well defined. As we have prepiously stated, and state once again, district courts have the power and the duty to define the issues at the earliest stages of litigation.

Under the Federal Rules of Civil Procedure, a defendant faced with a shotgun complaint is not expected to frame a responsive pleading. Rather, the defendant is expected to move, puraunt to Rule 12(e) [1] to require the plaintiff to file a more definite

---

[1] Rule 12(e) states: " If a pleading to which a responsive pleading is permitted is as vague or ambiguous that a party may not be reasonably be required to frame a responsive pleading , the party may move for a more definite statement before interposing a responsive pleading. The motion should point out the defects complained of and the details desired If the motion is granted and the order of the court not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such an order as it deems just."

statement. Anderson v. Board of Trustees of Cent. Florida Community College, 77 F. 3d 364, 366 (11th Cir. 1996).

If, in the face of a shotgun complaint, the defendant does not move the district court to require a more definite statement, the court, in the exercise of its inherent power, must intervene *sua ponte* and order a repleader. Byrne v. Nezhat 261 F. 3de 1075 , 1133 (11th Cir. 2001).This duty to intervene *sua ponte* applies whether the court is faced with a shotgun complaint or a shotgun answer. Id. at 1133 n. 114.

> Shotgun pleadings, if tolerated, harm the the court by impeding its ability to administer justice. The time the court spends managing litigation framed fr m shotgun pleadings should e devoted in other cases waiting to be heard. Wasting scarce judicial and parajudicial resources impedes the due administration of kjustice and, in a real sense, amounts to obstruction of justice.

Byrne v. Nezhat, 261 F. 3d 1075,1131 (11th Cir. 2001) (internal quotation omitted).

III. Analysis

Despite repeated admonitions from the Court to provide a shorter, more coherent complaint, Asam's second amented complaint is a 26 [24, added] -page labyrinth of claims, counts, accusations, and repetition. 2 As an example, what follows is paragraph 73 of the second amended complaint:

---

[2] Although proceeding *pro se* the Plaintiff claims to hold both Ph D. and J.D. degrees. As a "substitute teacher and cancer scientist," she ostensibly has the education, training and experience to be capable of drafting a coherent complaint.

> Ms. Wenzel as an attorney for the Volusia County School Board that a teacher had the right to attend a meeting (deposition) about her otherwise, [sic] the teacher did not have due process under the 14th Admendment to the U.S. Constitution as to life, liberty, or property as well .as violation of equal protection of the law. Also, the sunshine law was violated by Ms. Wenzel. Ms. Wenze3l asked about "depressed and "anxious" of Dr. Asam on cross-examionation when not mentioned on direct , when Dr. Asam was suppose to see Dr. Hoffen as a neurologist, and not a psychiatrist, and she did not know about Dr. Hoffen being a psychiatrist until after the medical office visit which was authorized by Ms. Suzanne Evans. See Exhibit B by Ms. Evans in Count 2 which means that the USIS was to pay Dr. Hoffen. See Dr. Hoffen's business card, showing both neurologist and psychiatrist when I was only to see a neurologist.

(Doc. 83 at 16). Altough that paragraph is a bit longer than average, it is notheless typical of the 26 [24] pages of the second amended complaint. As should be obvious, litigation framed by such a pleading would certainly "wast[e] scarce judicial and parajudicial resources, impede the due administration of justice." and, in a very real sense, amount to obstruction of justice.

/s/ Gregory Presnell
GREGORY PRESNELL
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

OTLANDO DIVISION

CASE NO,.6:O7-cv-116-Orl-31-DAB

Dr. Julia McCain Lampkin-Asam
Plaintiff

Against

Volusia County School Board, Judy Anderson, and
Dr. Al Williams, Chairman,
Dr. Margaret A. Smith, Superintendant of Schools,
Volusia County School Board,
Marl Corruthers, Assistant Principal, Deltona
Middle School, Volusia County School Board,
Tamara E. Wenzel, Esquire, Smith, Hood, Perkins.
Loucks, Stout, Bigman, Lane, and Breck, P.A.
Dr. Michael Gebel ,
Dr. Bruce Hoffen,
USIS, United Self Insured Services, CEO,
USIS, Suzanna Evans, RN.

Request for Jury Trial
Request for Oral Argument
Julia McCain Lampkin-Asam, Pro Se /s/
Julia McCain Lampkin-Asam, Ph.D.,J.D.
3240 Tealwood Terrace
Deltona, Florida 32725
Phone (386) 532 6270

APPENDIX C

SECOND AMENDED COMLAINT
(A Documentary)

Count 1

Claim 1a

Volusia County School Board as a defendant owes D. Lampkin-Asam medical expenses for being hit by a student with a weapon in the back of her head for resulting permanent damages to her head and body.

Claim 1b

Volusia County School Board is liable to Dr. termination of employment as a substitute teacher owes Dr. Lampkin-Asam forward of what she would earn at the current and future amount of a substitute would make as a Ph.D.

Claim 2

Volusia County School Board is liable to Dr. Lampkin-Asam for wrongful; termination of employment as a substitute teacher.

Claim 3

Volusia County School Board is liable because Dr. Margaret Smith failed to investigate the incident of a felony crime at Deltona Middle School that happened on August 24,2005, causing damage to Dr. Lampkin-Asam who has not yet had her ER Hospital bill paid since 8/26/05.

Claim 4

Volusia County School Board is liable because Dr. Margaret Smith failed to investigate the false, defamatory, libelous, and stigmatizing statements sent by fax to Personnel (Exhibit I1 claiming for 4 days 8/22-25/06 that Dr. L. Asam showed "Unsatisfactory performance of duties" and "Lack of control of a student" and signed by Mr.

Mark Corruthers, Assistant Principal of Deltona Middle School, one of the schools controlled by Volusia County School Board.

11 Claim 4b

12 The controlling law of Dr. Margaret Smith and investigating the phantom evaluation of Mr. Corruthers also acting as an official of the school Board is outrageous to try to cover-up a felony crime when the substitute teacher was doing what the regular teacher left as lesson plans.

13 Claim 4c

14 Volusia County School Board is liable to Dr. Lampkin-Asam because Dr. Margaret Smith failed to investigate the phantom teacher evaluation)Mr. Mark Corruthers never came to the classroom to make a teacher's evaluation) of his false, defamatory , and stigmatizing statements of "Unsatisfactory performance of Duties" and "Lack of control of a student (one student she could not see since she was hit in the back of her head by the student) to cover-up a felony crime for a student when the incident happened on August 24, 2005.

15 Claim 4d

16 Mr. Corruthers made another false statement listing the dates as August 22-25 when D. Lampkin-Asam was transferred from 8th grade to 7th grade math on August 25, 2005. (See Exhibit I1, stigmatizing Dr. Lampkin-Asam in obtaining any other teaching job when she had an unblemished record of teaching since 2001 and causing her not to receive any grant money because Dr. Lampkin-Asam has always performed whatever class she was teaching.

17 Claim 5

18 Volusia County School Board owes Dr. Lampkin-Asam for back pay since August 25, 2005, the last day actually worked because she was hit in the back of her head by a student with a weapon.

19 Claim 6a

20 Because of the "Memory Disturbance" Dr. Lampkin-Asam was unable to finish her Book "Mutant Proteins Used To Protect Against Radiation and Resistance in P1798 Sensitive and Resistant to Lymphomas," which was a grant proposal for cancer research she had been writing in the summer of 2005. The Volusia County was directly liable for blocking cancer research on radiation protection to the carcinogenesis of lymphomas and regression (remission) of lymphomas.

21 Claim 6a

22 The Volusia County School Board is liable and responsible for damages to her head by a student with a weapon hitting Dr,. Lampkin-Asam in the head causing permanent damages as stated in this Amended Complaint, and owes $25,000.000.00, money which she will donate for cancer research.

...The entire Second Amended Complaint of 24 pages is incorporated into this Appendix as if rewritten because the Notice of Appeal was timely filed on May 3, 2007. [Defendants Ms. Wenzel (Gaines), Dr. Hoffen, Ms. Evans and USIS are mentioned on p. 15 of the Second Amended Complaint.

The following statement on p.15, paragraph 75, states:

"No Defendants in Counts 2 through 6 come under 42 U.S.C Section 1983, as previously pretended by Lawyers Counts 2 through 6."

Count 2 is about Ms. Suzanne Evans.

79 Claim 2

80 Suzanne Evans violated F.S. 440.134 (17) "notice" because Dr. Asam was not given "notice" until 9/1/05 (See Exhibit Z-2 for Notice and Exhibit X-3 for F.S. 440.134 (17) but Dr. Asam had to go ER Hospital first 8/26/05 the when the incident 8/24/06 of her being hit in the back of head by a student with a weapon while she was teaching; however, Ms. Evans never authorized the 8/26/05 Hospital bill to be paid.

...88 Claim 6

89 Because Ms. Evans has been abusing the Florida Statute 440.134 (17) SHE DOES HAVE CONNECTION WITH Florida action and federal court does have jurisdiction since Ms. Evans acting under color of state law violated Dr. Lampkin-Asam's due process rights of life, liberty, or property rights under 14th Amendment to U.S. Constitution.

Count 3 is on Dr. Michael Gebel.

96 Claim 4

This wrongful change to a false medical record without seeing patient again is clearly a violation of Dr. Lampkin-Asam's due process rights as to life, liberty, or property under the 14th Amendment to the U.S. Constitution which is the federal jurisdiction for Dr. Gebel to be a defendant in the federal court when Dr. Asam was a public school

teacher who had been hit by a student with a weapon and is not a frivolous lawsuit; Dr. Gebel was acting under color of state law - see law pp. 14 and 15.

Count 4 is Dr. Hoffen.

106 Claim 3

107 Dr. Hoffen pretended Dr. Lampkin-Asam was depressed and anxious in a medical record report referred to in Deposition (Ex EE) and he aggressively made her leave before deposition started and words depressed and anxious were false and detrimental to her as a cancer scientist and violated her due process rights as to life, liberty, or property under 14th Amendment to U.S. Constitution and or violation of equal protection of law.

Count 5 is on USIS.

110 Claim 1

111 The USIS, Inc., United Self Insured Services, is jointly and severally liable to whatever the Volusia County School Board is liable concerning the incident of Dr. Lampkin-Asam being hit in the back of her head by a student with a weapon while she was teaching on August 24, 2005

Count 6 is about Ms Wenzel (Gaines), Defendant and Attorney for Volusia County School Board which in my opinion is a violation of ethics and conflict of interest to be a Defendant and attorney for the Volusia County School Board. Dr. Lampkin-Asam reported to the Florida Bar. See about the Florida Bar in Appendix ( ).

121 Claim 2

122 Ms. Wenzel acting under color of state law failed as the lawyer for the Volusia County School Board to state school policy about teacher's rights that the school was not to have secretly conducted hearings about a teacher without her being present. [Violation of Florida Sunshine law about public school teacher.

123 Claim 3

124 Ms. Wenzel (Gaines) violated Dr. Lampkin-Asam's rights as to equal protection of the law since Mr. Hood when he took the deposition of Dr. Asam he had a representative of Volusia County School Board observing the deposition.

125 Claim 4

126 Ms. Wenzel (Gaines) acting under color of state law failed to allow Dr.Asam to be present at the Deposition of January 8, 2007; therefore. Ms. Wenzel Gaines violated the due process of Dr. Asam as to due process when life, liberty, or property is concerned under the 14th Amendment to the U.S. Constitution.

CONSTITUTIONAL PROVISIONS AND FEDERAL STATUTES INVOLVED

United States Constitution, Amendment V

in pertinent part, as follow:"

"No person shall,,, be deprived of life, liberty, or property, without due process of law..."

United States Constitution, Amendment XIV

"Section 1. All persons born or naturalized and

subject to jurisdiction thereof, are citizens of the United States and of the States wherein they reside; No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor equal protection of the laws."

United States Constitution, Amendment VII

"In Suits at common law, where the value in controversy shall exceed twenty dollars,the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law."

United States Constitution, Amendment I.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or bridging the freedom of speech, or of the press, or the right of people to peaceably to assemble, and to petition the government for redress of grievances."

FEDERAL STATUTES

42 U.S.C. Section 1983

"Every person who, under color of any stature, ordinance regulation, custom, usuage, or any State or Territory . Subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of

any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

28 U.S.C. Section 1343(3)

3) To redress the deprived, under color of any State law, statutes ordinance, regulation, custom or usuage , or any right, privilege or immunity by the Constitution of the United States or any Act of Congress providing for equal rights of citizens or of persons within the jurisdictiion of the United States."

28 U.S.C. Section 2106

"The Supreme Court or any other court of appellate jurisdiction may affirm, modify. restate, set aside, or reverse any judgement, decree, or order of court lawfully brought before it for review, and may remand the Cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances."

28 U.S.C. Section 1254

"Cases in the Court s of Appeals may be reviewed by the Supreme Court by the following methods:

(1) By Writ of Certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree"...

FEDERAL RULES OF CIVIL PROCEDURE

"Rule 8(a)(2) states:
"(2) a short and plain statement of the claim showing that pleader is entitled to relief."...

"A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that plaintiff can prove no set of facts in support of his claims which would entitled him to relief. Fed. Rules Civ. Proc. Rule 12(b)6 28 U.S.C.A.

Rule 12(e) states "If a pleading to which a responsive pleading is permitted is as vague or ambiguous that a party may not be reasonably be required to frame a responsive pleading, the party may move for a more responsive pleading. The motion should point out the defects complained of and the details desired if the motion is granted and the order of the court not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such an order as it deems just."

FLORIDA STATUTES

F.S. 770.01

"Before any civil action is brought for publication in a newspaper or periodical, of a libel, the plaintiff shall, at least five days before instituting such action, serve notice in writing on defendant, specifying, the article, and statements therein, which he alleges to be false and defamatory."

F.S. 286.011
ALSO KNOWN AS SUNSHINE LAW

"(1) All meetings of any board or commission of any state agency of authority or of any agency or authority of any county, municipal corporation or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken to be public meetings open to the public at all times, and no resolution, rule, or formal action or formal shall be considered binding except as taken at that meeting. The Board must provide reasonable notice of that meeting."

F.S. 440.134 (17)

"(17) Notwithstanding any other provisions of this chapter, when a carrier provides through a workers' compensation managed care arrangement, pursuant to this section workers who are subject to this arragement must receice medical services for workers injuries and diseases as prescribed in the

contract, provided the employer and carrier provided notice[1] (Emphasis added) to the employees to the arrangement in a manner approved medical services are in accordance with the practice parameters and proticols established pursuant to this chapter. Treatment received outside the workers' compensa-tion medical arrangement is not compensable, regardless of the purpose of the treatment, including limited to, evaluations examinations, or diagnostic studies to determine causation of medical, findings and a compensable accident, the existence or extent of impaorment disabilities, and whether the injured employee has reached maximum medical inprovement authorized by the carrier prior to the treatment date."

[1] No notice was given to Dr. Lampkin-Asam before she has to go to ER Hospital on 8/26/05.

FLORIDA STATUTE 119.011(1)[2]

"Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business of any agency."

---

[2] Dade County School Board v. Miami Herald Pub. Co. 443 So. 2d 268 (DCA of Fla. 3rd Dist., 1983) was cited showing personnel file of teacher is a public record.

.From Orlando Sentinel November 1, 2005

"TEACHER, SCHOOL DISTRICT CLASH

OVER HEAD INJURY

The Deltona Middle Substitute says she was hit by a student but district officials critisize her work.

By Erika Hobbs
Sentinel Staff writer

Julia Lampkin-Asam was huddled with students going over a math lesson on an August afternoon at Deltona Middle School when someone struck her in the head from behind.

The 74-year old teacher crumpled into a chair.

She suffered a conussion and later a heart attack which she blames on the blow.

But she isn't bitter. She isn't sueing Volusia County Schools. She said she wants to raise awareness about uncontrollable some students an be.

"I don't want anybody else go get hurt," she said. According to police records, students suspect a classmate struck Lampkin-Asam at the end of a math class, moments after the dismissal bell rang. No one admits witnessing it, but those interviewed said that a boy bragged about the incident. He later denied any involvement.

The incident created a controversy between Lampkin-Asam and district officials. Lampkin-

Asam, who had an unblemished record during her four years at Volusia School was reprimanded for her classroom performance during the four days she taught when the alleged attack happened. Sh has been barred from teaching at Deltona Middle. "I can't believe it I have taught hundreds of classes in Volusia without a problem."

District spokeswoman Nancy Wait said that because a suspect has not been identified, no one has been punished and no arrests have been made. She would not comment further, citing workers' compensation and other legal issues.

A 2004 federal survey showd that a 4 per cent of teachers nationwide reported they were victims of attacks by students. According to the State Department of Juvenile Justice, Volusia logged 24 reports of youths attempting to hurt an elected or school official last year,

It's rare said John See, a spokesman for the American Federation of Teachers in Washington, D.C. "But one is too many.

Lampkin-Asam said she does not know how long she sat in that chair that afternoon.

When her thoughts cleared, new students awaited her. So she finished the day.

She said she didn't feel well the next day, but struggled through the last of her four-day stint filling in for absent math teachers. By Friday, two days after she was struck in the head, Lampkin-Asam was in the emergency room. She'd had a concussion and a heart attack her medical records show, Lampkin-Asam thinks the strike triggered the heart attack.

Doctors are still examining her, but whether the blow on the head contributed to her heart attack is not clear.

Doctors have ordered her to stay home. Her head still aches, she said. She's less steady. Words sometimes escape Lampkin-Asam, embarrassing the woman who once conducted cancer research in University laboratories.

Lampkin-Asam, who has a doctorate degree in biochemistry and a law degree, has taught college-level math and science.

But her life's work has been trying to cure cancer. Her early work on lymphomas proved promising. She has been associated with the University of Miami and the University of Wisconsin, but most of her 33-year career has been spent as an independent researcher.

Lampkin-Asam now mainly conducts literature reviews on lymphomas. She dedicates most of her time raising money for her non profit Lampkin-Cancer Institute in Deltona. She hopes to fund further research through the foundation, which she supports herself with the money she earns from substitute teaching.

She loves teaching, she said, and hopes to return.

However, she is not sure that she will be allowed to.

On the same day she filed a report about the incident, Deltona Middle School Assistant Principal Mark Corruthers filed a complaint against Lampkin-Asam, saying she lacked "control of student conduct" while she was at the school. It is the first complaint or reprimand she has received, her personnel showed. As a result she has been

advised that she may not be allowed to work for the district again.

"What he wrote is absolutely false," (Emphasis added), Lampkin-Asam said.

She added that she suspects Corruthers filed the report in response to her incident report.

The school would not comment about Lampkin-Asam's reprimand.

"As I've said I cannot comment on this case because of confidentially of worker's comp claim and possible litigation" spokeswoman Wait said in an e-mail interview.

But Lampkin-Asam's health may keep her from teaching.

Still she has hope.

"I've got too much to do to give up," she said."

Letter dated, "February 07, 2008...
To Clerk, U.S.District Court...
"Appeal Number: 07-12704-BB
Case Style: Julia McCain Lampkin-Asam Volusia County School
District Court Number: 07-00116 CV -ORL-31-DAB
... Also enclosed are the following :

Original Exhibits, consisting of two folders
Original record on appeal or review, consisting of three volume"... .

Sincerely,

THOMAS K. KAHN,

Clerk, ..."

APPENDIX F

See Order dated 4/16/07 p. 2 and 3, Document 2, which states,

"If she so desires, the Plaintiff will be provided one final chance to draft an amended complaint that satisfies the requirements of the Federal Rules of Civil procedure. The Plainbtiff may file a second amended complaint not more than 20 days from the entry of this order. The Defendants need not respond to that pleading, or to any motion filed in the interim, until directed do so by this Court."

DONE AND ORDERED in Chambers, Orlando, Florida on April 16,2007."

/s/ Gregory Presnell
GREGORY PRESNELL
UNITED STATES DISTRICT JUDGE

APPENDIX G

OTHER

ORLANDO SENTINEL, dated November 1, 2005 in Volusia County Section. See Appendix E about Dr. Lampkin-Asam's Head injury and the controversy created by Mr. Corruthers, Assistant Principal who tried to illegally cover-up a felony violence in his school by a student. See Exhibit (I1a).

Sheriff report number 05-31030 filed in Deland, Florida.

APPENDIX H

ORLANDO SENTINEL, dated March 15, 2008, Front page of State and Local section of newspaper about 3 teenagers that were going to shoot students in cafeteria and then shoot themselves which Dr. Lampkin-Asam discussed concerning reasons to grant the writ on p. of this Writ. Schools should not allow gangs to gather in the school and bring weapons to school. There was no metal detector when I became a victim of a student who was unprovoked and had just returned from school retention intentionally hit me in the back of my head and later told authorities that he couldn't remember what happened. See 05-31030 on file in Deland, Florida in Volusia County Sheriff Records.

APPENDIX I

94

(2)

FILED
MAY 29 2008
CLERK

No. 07-1359

IN THE

Supreme Court of the United States

JULIA McCAIN LAMPKIN-ASAM,

Petitioner,

v.

VOLUSIA COUNTY SCHOOL BOARD, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

BRIEF IN OPPOSITION FOR RESPONDENT SUZANNE EVANS, R.N.

H. MICHAEL MUÑIZ
Appellate Counsel
LAW OFFICES OF
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Facsimile: (954) 966-2446

Attorneys for Respondent Suzanne Evans, R.N.

216113

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

QUESTIONS PRESENTED

I. Whether Petitioner presented any compelling reason to enable this Court to exercise its certiorari jurisdiction and reach the merits of the case, where Petitioner failed to not only establish but address any of the requisites of Rule 10 or otherwise?

II. Whether Petitioner presented any compelling reason for this Court to exercise its certiorari jurisdiction and reach the merits of the case, where Petitioner, just as she did in the lower court, presented a petition that was unintelligible?

III. Whether Petitioner's claims against Respondent Evans failed, as a matter of law?

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II. The Instant Petition, Like Petitioner's Pleadings Below, Was Unintelligible. 14

III. Petitioner's Claims Against Respondent Evans Failed, as a Matter of Law. 18

A. Plaintiff Failed to Allege Facts Sufficient to Support Requisite that Evans Was a State Actor. 19

B. Plaintiff Had Not Alleged Facts Sufficient to Support a Cause of Action Against Evans. 21

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STATEMENT OF THE CASE

The instant Petition primarily concerns the adverse, yet just, result obtained by a former attorney's repeated failure to abide by governing federal rules of civil procedure, in addition to failing to comply with the district court's orders. Petitioner's failures occurred in the midst of presenting her *pro se* pleadings to the federal trial court.

Petitioner, Plaintiff below, filed suit in the Middle District of Florida during January 2007. Her first pleading was dismissed on Respondents' motions to dismiss because "it was disjointed, repetitive, disorganized and barely comprehensible." *Lampkin-Asam v. Volusia County Sch. Bd.*, No. 6:07-cv-116-Orl-31DAB, WL 1129002, at *1 (M.D. Fla. Apr. 16, 2007). In its initial order, the district court concluded

> [i]t is impossible for the Court to decipher which claims are brought against which parties under which counts. Plaintiff purportedly [holds] J.D. and Ph.D. degrees, and practiced as an attorney in Alabama until she was disbarred. While federal courts typically grant greater latitude to the pleadings of *pro se* plaintiffs, the complaint filed in this case is unacceptable by any standard, and particularly from a former attorney.

Id.

Plaintiff followed her initial pleading with an amended complaint which, like the first, was also "disjointed, repetitive, disorganized and barely comprehensible." *Id.* The district court could not "unravel th[e] document, and the Defendants should not be required to respond to it." *Id.*; *see 2025 Emery Highway, L.L.C. v. Bibb County*, 377 F.2d 1310, 1317 (M.D. Ga. 2005) (concluding the court's attempt to, essentially, understand plaintiff's pleading was "no more successful than an attempt to herd cats"). Nevertheless, Plaintiff was permitted another opportunity to amend her pleading but, at the same time, admonished that she must satisfy the requirements of the Federal Rules of Civil Procedure. *Lampkin-Asam v. Volusia County Sch. Bd.*, No. 6:07-cv-116-Orl-31DAB, WL 1129002, at *1.

Plaintiff then filed her third pleading, or a second amended complaint. *Lampkin-Asam v. Volusia County Sch. Bd.*, No. 6:07-cv-116-Orl-31DAB, WL 1577814, at *1 (M.D. Fla. May 16, 2007). Yet, again, Plaintiff's third pleading was "a 26-page labyrinth of claims, counts, accusations and repetition." *Id.* at *2. The district court concluded that "litigation framed by such a pleading would certainly waste scarce judicial and parajudicial resources, impede the due administration of justice and, in a very real sense, amount to an obstruction of justice." *Id.* Having been forewarned, not once but twice on the same issue by the district court, Plaintiff's third pleading was dismissed with prejudice.[1] *Id.*

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[1] The district court stated in its two reported decisions that it acted *sua sponte*, which it has the rule and inherent authority (Cont'd)

On appeal to the Eleventh Circuit, the court of appeals observed that "[i]n her second amended complaint, [Plaintiff] sought relief under 42 U.S.C. § 1983" based upon a student hitting her in the back of the head while she, a substitute teacher, was teaching math at Deltona Middle School. *Lampkin-Asam v. Volusia County Sch. Bd.*, No. 07-12704, WL 80708, at *1 (11th Cir. Jan. 9, 2008) (*per curiam*). "The complaint alleged, among other things, that those defendants violated her Fourteenth Amendment due process rights." *Id.*

Upon *de novo* "review of Lampkin-Asam's second amended complaint, [the court] agree[d] with the district court that it is confusing, incoherent, and clogged with seemingly irrelevant factual allegations." *Lampkin-Asam v. Volusia County Sch. Bd.*, No. 07-12704, WL 80708, at *2 (11th Cir. Jan. 9, 2008) (*per curiam*). Accordingly, the court of appeals affirmed the judgment of the district court, concluding that Plaintiff had sufficient opportunity to correct the deficiencies in her pleadings and "as a former attorney and person who possess[es] formal legal training, should have been able to draft a complaint that complies with Rule 8." *Id.*;

(Cont'd)

to do. *Lampkin-Asam v. Volusia County Sch. Bd.*, No. 07-12704, WL 80708, at *2 (11th Cir. Jan. 9, 2008) (*per curiam*) (providing, in relevant part, "district courts have a supervisory obligation, under Rule 12(e), to *sua sponte* direct a plaintiff to better plead his [or her] complaint"); *see Estelle v. Gamble*, 429 U.S. 97, 98 (1976) ("The District Court, sua sponte dismissed the complaint for failure to state a claim upon which relief could be granted."). The record reveals the defendants filed multiple motions and memoranda to dismiss against each pleading filed.

Lampkin-Asam v. Volusia County Sch. Bd., No. 6:07-cv-116-Orl-31DAB, WL 1577814, at *2 n.2 (M.D. Fla. May 16, 2007) ("Although proceeding *pro se*, the Plaintiff claims to hold both Ph.D. and J.D. degrees. As a [former attorney,] substitute teacher and cancer scientist, she ostensibly has the education, training and experience to be capable of drafting a coherent complaint."); *see Morrison v. Morgan Stanley Properties*, No. 06-80751-CIV, WL 149975, at *3-*6 (S.D. Fla. Jan. 14, 2008) (addressing inadequacies of typical, *pro se* pleading and finding Eleventh Circuit's decision in *Lampkin-Asam v. Volusia County Sch. Bd.* instructive).

The unrelenting Petitioner then proceeded to seek certiorari review in this Court notwithstanding that, at this juncture, the district court as well as the three-judge appellate panel, or four federal judges, had found Plaintiff's third pleading legally insufficient, defective and rule non-compliant. FED. R. CIV. P. 8(a); *see McNeil v. United States*, 508 U.S. 106, 113 (1993) (discussed *infra*).

JURISDICTION

"Federal courts have original jurisdiction of all civil actions that arise under the Constitution or laws of the United States." *Jairath v. Dyer*, 154 F.3d 1280, 1282 (11th Cir. 1998) (*citing*, 28 U.S.C. § 1331). Additionally, the United States Supreme Court is the final arbiter of the U.S. Constitution, as well as issues arising under federal law, such as Petitioner's claims under 42 U.S.C. § 1983 and the 14th amendment of the U.S. Constitution. *Arizona v. Evans*, 514 U.S. 1, 8 (1995). Petitioner also invoked the Court's certiorari jurisdiction under

28 U.S.C. § 1254(1),[2] and Respondent does not dispute that the Court has jurisdiction to determine its own jurisdiction. *See Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006) ("Moreover, courts, including this Court, have an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.").

REASONS FOR DENYING THE PETITION[3]

I. *No Basis Was Established by Petitioner to Enable the Court to Exercise Its Certiorari Jurisdiction.*

Without exception, just like her profusive filings in this Court before the instant Petition, the *pro se* Petitioner, who (obviously) is no stranger before this Court, has once again failed to present a "compelling reason" to enable the Court to exercise its certiorari jurisdiction. Sup. Ct. R. 10; EUGENE GRESSMAN, ET AL., SUPREME COURT PRACTICE § 4 (9th ed. 2007); *see, e.g.*, *Asam v. Hancock*, 522 U.S. 983 (1997) (denying cert.); *Asam v. Owens*, 522 U.S. 862 (1997) (denying cert.); *Asam v. Ryan*, 520 U.S. 1275 (1997) (denying cert.); *Asam v. Norris*, 520 U.S. 1265 (1997) (denying cert.); *Asam v. Devereaux*, 520 U.S. 1265 (1997) (denying cert.); *Asam v. Disciplinary Bd. of the Ala. State Bar*, 519 U.S.

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[2] Petition, at p. i, Question Presented No. I.

[3] The arguments presented by Respondent are not intended to be nor are they directed at Petitioner per se but, rather, are directed at Petitioner's decisions to appeal the district court's as well as the Eleventh Circuit's judgments, all the while proceeding *pro se*. *Infra* note 8.

814 (1996) (denying cert.), *reh'g denied*, 519 U.S. 1001 (1996); *In re Asam*, 519 U.S. 981 (1996) (denying cert.); *Asam v. Ala. State Bar*, 519 U.S. 982 (1996) (denying cert.); *Asam v. Harwood*, 513 U.S. 826 (1994) (denying cert.); *Asam v. Harwood*, 511 U.S. 1078 (1994) (denying cert.); *Stokes v. Hatch*, 510 U.S. 1115 (1994) (denying cert.); *Asam v. City of Tuscaloosa*, 506 U.S. 974 (1992) (denying cert.); *Asam v. City of Tuscaloosa*, 506 U.S. 1033 (1992) (denying cert.); *Asam v. Shapiro*, 488 U.S. 1024 (1989) (denying cert.), *reh'g denied*, 489 U.S. 1073 (1989); *Asam v. Lee County Dist. Sch. Bd.*, 484 U.S. 951 (1987) (denying cert.), *reh'g denied*, 484 U.S. 1083 (1988); *In re Asam*, 484 U.S. 909 (1987) (denying cert.), *reh'g denied*, 484 U.S. 1021 (1988); *In re Asam*, 484 U.S. 909 (1987) (denying cert.), *reh'g denied*, 484 U.S. 1021 (1988); *Lampkin-Asam v. Miami Daily News, Inc.*, 459 U.S. 806 (1982) (denying cert.), *reh'g denied*, 459 U.S. 1189 (1983); *Asam v. Stanley*, 459 U.S. 859 (1982), *reh'g denied*, 459 U.S. 1189 (1983); *Lampkin-Asam v. FTP-NEA Union*, 451 U.S. 978 (1981) (denying cert.), *reh'g denied*, 453 U.S. 923 (1981); *Lampkin-Asam v. Supreme Court of Fla.*, 444 U.S. 1013 (1980) (denying cert.), *reh'g denied*, 444 U.S. 1103 (1980).

If the Court declines to exercise its certiorari jurisdiction, as it should, the Court would not reach the merits of the case. *State of Md. v. Baltimore Radio Show*, 338 U.S. 912, 919 (1950) (Frankfurter, J., respecting the denial of the petition for writ of certiorari)

> ("Inasmuch, therefore, as all that a denial of a petition for a writ of certiorari means is that fewer than four members of the Court thought it should be granted, this Court has

> rigorously insisted that such a denial carries with it no implication whatever regarding the Court's views on the merits of a case which it has declined to review. The Court has said this again and again; again and again the admonition has to be repeated.")

cf. Citibank, N.A. v. Wells Fargo Asia Ltd., 495 U.S. 660, 673 (1990) (Rehnquist, C.J., *concurring*) ("But the Court by its grant of certiorari has decided that the case should be considered on the merits."); (*citing, Ferguson v. Moore-McCormack Lines, Inc.*, 352 U.S. 521, 559 (1957) (Harlan, J., *dissenting*)); *Estelle v. Gamble*, 429 U.S. 97, 115 n.9 (1976) (Stevens, J., *dissenting*) (questioning why certiorari was granted where the case merely involved well-settled principles "at a time when the Court is thought by many to be burdened by too heavy a caseload").

Similar to the burden Petitioner has placed on this Court over multiple decades,[4] the Eleventh Circuit's judicial landscape has been littered with filings by Petitioner, the majority of the time filed *pro se* over the past thirty (30) years. *See, e.g., Asam v. V.A.*, 168 F.3d

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[4] *Day v. Day*, 510 U.S. 1, 2 (1993) (*per curiam*) ("Every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice.") (*citing, In re McDonald*, 489 U.S. 180, 184, (1989) (*per curiam*)). "Consideration of Day's repetitious and frivolous petitions for certiorari does not promote this end." *Day*, 510 U.S. at 2. *Infra* note 8, 16.

507 (11th Cir. 1999), *reh'g en banc denied*, 176 F.3d 496 (11th Cir. 1999); *In re Asam*, 117 F.3d 1432 (11th Cir. 1997) (affirming without opinion); *Asam v. Ryan*, 106 F.3d 417 (11th Cir. 1997) (affirming without opinion); *Asam v. Owens*, 113 F.3d 1251 (11th Cir. 1997) (affirming without opinion); *Asam v. Norris*, 691 So. 2d 1056 (Ala. 1996) (affirming without opinion); *Ex parte Asam*, 681 So. 2d 650 (Ala. 1996) (denying cert.); *Asam v. Devereaux*, 686 So. 2d 1222 (Ala. 1996) (*per curiam*) (affirming trial court judgment); *Asam v. Ala. State Bar*, 675 So. 2d 866 (Ala. 1996) (affirming disbarment of attorney Lampkin-Asam from Alabama State Bar, who was admitted in 1988); *Asam v. Sexton*, 79 F.3d 1159 (11th Cir. 1996) (affirming without opinion); *Asam v. Vreeland*, 51 F.3d 1051 (11th Cir. 1995) (affirming without opinion); *Asam v. Harwood*, 19 F.3d 36 (11th Cir. 1994) (affirming without opinion); *Asam v. Capps Trailer Sales, Inc.*, 631 So. 2d 251 (Ct. App. Ala. 1993) (affirming trial court judgment awarding fees and costs against then, Alabama-licensed attorney Asam); *Asam v. City of Tuscaloosa*, 599 So. 2d 1192 (Ct. App. Ala. 1992) (affirming trial court judgment); *Asam v. City of Tuscaloosa*, 585 So. 2d 60 (Ct. App. Ala. 1991) (dismissing appeal for lack of jurisdiction); *Asam v. City of Tuscaloosa*, 907 F.2d 1143 (11th Cir. 1990) (affirming without opinion), *reh'g en banc denied*, 912 F.2d 1470 (11th Cir. 1990); *Asam v. Shapiro*, 858 F.2d 744 (11th Cir. 1988) (affirming without opinion); *Asam v. Lee County Dist. Bd.*, 816 F.2d 686 (11th Cir. 1987) (affirming without opinion); *Lampkin-Asam v. Miami Daily News, Inc.*, 417 So. 2d 329 (Fla. 1982) (denying cert.); *Lampkin-Asam v. Lee County Sch. Bd.*, 404 So. 2d 869 (Fla. 1st DCA 1981) (affirming without opinion); *Lampkin-Asam v. Supreme Court of Fla.*, 601 F.2d 760

(5th Cir. 1979) (*per curiam*) (affirming district court judgment); *Lampkin-Asam v. Dunning*, 358 So. 2d 1201 (Fla. 3d DCA 1978) (dismissing appeal).

In all but two of the identified, reported cases wherein the former Alabama-licensed practitioner represented an appellant, the results obtained were virtually as dismal, as when Petitioner proceeded *pro se*. *See, e.g., Allen v. State*, 598 So. 2d 1031 (Ct. App. Ala. 1992) (affirming trial court judgment); *Bishop v. Southrail Corp.*, 595 So. 2d 857 (Ala. 1992) (affirming trial court judgment); *Waters v. Hipp*, 600 So. 2d 981 (Ala. 1992) (affirming trial court judgment); *Nelson v. Univ. of Ala. Sys.*, 594 So. 2d 632 (Ala. 1992) (affirming trial court judgment); *Brown v. Morris*, 593 So. 2d 59 (Ala. 1992) (*per curiam*) (affirming trial court judgment); *Williams v. Capps Trailer Sales, Inc.*, 607 So. 2d 1272 (Ct. App. Ala. 1992) (affirming virtually all of trial court's judgment); *Waters v. Univ. of Ala. Hosp.*, 591 So. 2d 450 (Ala. 1991) (affirming trial court judgment); *Williams v. Capp Trailer Sales*, 589 So. 2d 159 (Ala. 1991) (affirming trial court judgment); *Gant v. Gant*, 562 So. 2d 1347 (Ct. App. Ala. 1990) (affirming trial court judgment); *Williams v. City of Northport*, 557 So. 2d 1272 (Ct. App. Ala. 1989) (affirming trial court judgment); *Garner v. Barnett*, 576 So. 2d 234 (Ala. 1991) (reversing and remanding); *Garner v. Walker*, 577 So. 2d 1276 (Ala. 1991) (same as *Barnett*).

In most circumstances, consistency is preferred, even necessary and a highly regarded attribute. *See Marek v. Chesny*, 473 U.S. 1, 21 (1985) ("We previously have held that words and phrases in the Federal Rules must be given a consistent usage and be read *in pari*

materia, reasoning that to do otherwise would attribute a schizophrenic intent to the drafters.") (Brennan, J., Marshall, J., Blackmun, J., *dissenting*) (*citing*, quoting majority decision in *Delta Airlines, Inc. v. August*, 450 U.S. 346, 353 (1981)). However, little or no regard may exist where a Petitioner has consistently failed to demonstrate that certiorari jurisdiction lies, just as Petitioner has again failed to demonstrate in this case.

Unlike most *pro se* litigants, Petitioner is not without legal training, having obtained a legal education, practiced law and been "a former member of the Alabama State Bar." *Lampkin-Asam v. Volusia County Sch. Bd.*, No. 07-12704, WL 80708, at *1-*2 & n.1 (11th Cir. Jan. 9, 2008) (*per curiam*) (*citing, Asam v. Ala. State Bar*, 675 So. 2d 866 (Ala. 1996) (discussed *infra*)). Petitioner simply is not the typical *pro se* litigant, *Lampkin-Asam v. Volusia County Sch. Bd.*, No. 07-12704, WL 80708, at *2, nor was she eligible for leniency with respect to her pleadings because she affirmatively claimed to hold a Juris Doctor degree. *Lampkin-Asam v. Volusia County Sch. Bd.*, No. 6:07-cv-116-Orl-31DAB, WL 1577814, at *2 n.2 (M.D. Fla. May 16, 2007) (discussed *infra*) (*citing*, *Asam v. Ala. State Bar*, 675 So. 2d 866 (Ala. 1996)). *Pro se* Petitioner, unlike others, was not entitled the leniency afforded those litigants without the benefit of a legal education. *GJR Inv., Inc. v. County of Escambia*, 132 F.3d 1359, 1369 (11th Cir. 1998) ("Courts do and should show a leniency to *pro se* litigants not enjoyed by those with the benefit of a legal education.") (citation omitted); *see Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (providing, in relevant part, "a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings

drafted by lawyers") (*citing*, quoting *Haines v. Kerner*, 404 U.S. 519 (1972)). Accordingly, the Court should not treat the instant Petition with any less stringent a standard than it would when drafted by an attorney, lawyer or other person claiming to have been legally educated. *Id.*; *see also McNeil v. United States*, 508 U.S. 106, 113 (1993) (providing, in relevant part, "we have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel")

> [I]n the present day federal court system . . . review by this Court is almost entirely discretionary . . . We receive nearly 7,000 petitions for certiorari every Term,[5] and can grant only a tiny fraction of them. A high degree of selectivity is thereby enjoined upon us in exercising our certiorari jurisdiction and our Rule 10 embodies the standards by which we decide to grant review. One of the reasons contained in Rule 10.1(a) is the existence of a conflict between one court of appeals and another. The negative implication of this ground, borne out time and again in our decisions to grant and deny certiorari, is that ordinarily a court of appeals decision interpreting one of our precedents-even one deemed to be arguably inconsistent with it-will not be reviewed unless it conflicts with a decision of another court of appeals. This fact

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[5] The Court's website currently discloses "more than 10,000 cases on the docket per term" or 43% more than the 1995 term.

> is a necessary concomitant of the limited capacity in this Court.

Hubbard v. United States, 514 U.S. 695, 720 (1995) (Rehnquist, C.J., O'Connor, J., Souter, J., *dissenting*); *see Yee v. City of Escondido*, 503 U.S. 519, 537 (1992) (declining to consider question and acknowledging if a conflict exists between the lower courts, "such a conflict is, of course, a substantial reason for granting certiorari under this Court's Rule 10").

Moreover, Petitioner failed to establish that the Eleventh Circuit's decision (i) was in conflict with the decision of another United States court of appeals on the same important matter; (ii) had decided an important federal question in a way that conflicts with a decision by a state court of last resort; (iii) had so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the Court's supervisory power; (iv) decided an important question of federal law that has not been, but should be, settled by the Court or conflicts with a decision of this Court; or (v) presented any other sound, material basis for certiorari review. Sup. Ct. R. 10; EUGENE GRESSMAN, ET AL., SUPREME COURT PRACTICE § 4 (9th ed. 2007). In fact, none of these factors which, generally, provide the basis for the Court's exercise of certiorari jurisdiction, were even addressed in the subject Petition. Evidently, Petitioner jumped right into the merits of the case, without first substantively addressing and overcoming the threshold, required issue of certiorari jurisdiction. *See Boag v. MacDougal*, 454 U.S. 364, 366 (1982) (O'Connor, J., *concurring*) (discussed *infra*).

> . . . I find merit in Justice REHNQUIST's comments that this Court is not equipped to correct every perceived error coming from the lower federal courts.[6] The effectiveness of this Court rests in part on its practice of deciding cases of broad significance and of declining to expend limited judicial resources on cases, such as the present one, whose significance is limited to the parties. In exercising our discretionary certiorari jurisdiction, we should not be influenced solely by the merits of the petitioner's case.

Boag v. MacDougal, 454 U.S. at 366 (O'Connor, J., *concurring*).

> "The Supreme Court is not, and never has been, primarily concerned with the correction of errors in lower court decisions.[7] In almost all cases within the Court's appellate jurisdiction, the petitioner has already received one appellate review of his [or her] case. The debates in the Constitutional Convention make clear that the purpose of the establishment of one supreme national tribunal was, in the words of John Rutledge of South Carolina, 'to secure the national

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[6] This aspect of the decision is not intended to be nor should it be construed as an admission of error, where there was none, by the Eleventh Circuit. *Lampkin-Asam v. Volusia County Sch. Bd.*, No. 07-12704, WL 80708 (11th Cir. Jan. 9, 2008) (*per curiam*).

[7] *Infra* note 6.

> rights & uniformity of Judgmts.' The function of the Supreme Court is, therefore, to resolve conflicts of opinion on federal questions that have arisen among lower courts, to pass upon questions of wide import under the Constitution, laws, and treaties of the United States, and to exercise supervisory power over the lower federal courts. If we took every case in which an interesting legal question is raised, or our *prima facie* impression is that the decision below is erroneous, we could not fulfill the Constitutional and statutory responsibilities placed upon the Court. To remain effective, the Supreme Court must continue to decide only those cases which present questions whose resolution will have immediate importance far beyond the particular facts and parties involved."

MacDougal, 454 U.S. at 368 (Rehnquist, C.J., White, J., *dissenting*) (quoting former Chief Justice Vinson).

Having failed to address as well as overcome the threshold certiorari jurisdictional issue, the Petition is fatally flawed and destined for the same fate, as all her other petitions; to wit: "cert. denied." (citations omitted).

II. *The Instant Petition, Like Petitioner's Pleadings Below, Was Unintelligible.*

Reportedly, twice before being admitted to practice law by the Alabama State Bar, 30 and 26 years ago, respectively, Petitioner made prudent decisions to engage counsel to represent her on two separate

matters on appeal.[8] *Lampkin-Asam v. District Court of Appeal*, 364 So. 2d 469 (Fla. 1978), *receded from*, *Johnson v. Citizens State Bank*, 537 So. 2d 96 (Fla. 1989); *Lampkin-Asam v. Miami Daily News, Inc.*, 408 So. 2d 666 (Fla. 3d DCA 1982). The legal landscape does not reflect or show that such a decision was ever again made by Petitioner, just as in the case at bar.

> Even a skilled lawyer who represents himself [or herself] is at a disadvantage in contested litigation.[9] Ethical considerations may make it inappropriate for him [or her] to appear as a witness. He [or she] is deprived of the judgment of an independent third party in framing the theory of the case, evaluating alternative methods of presenting the evidence, cross-examining hostile witnesses, formulating legal arguments, and in making sure that reason, rather than emotion, dictates the proper tactical response in the courtroom. The adage that "a lawyer who

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[8] Petitioner's skills, as a lawyer, were found severely lacking. *Asam v. Ala. State Bar*, 675 So. 2d 866, 867-79 (Ala. 1996) (quoting from Tuscaloosa lawyer's letter that "Asam was completely and hopelessly unqualified," cautioning Asam that "you need an attorney in the worst sort of way to represent you in this hearing," and affirming Alabama State Bar's findings of guilt on 17 of 28 charges including, *inter alia*, multiple violations of rule requiring competent representation of a client, resulting in her disbarment). Her qualifications to conduct cancer research have also been assailed. *Lampkin-Asam v. Miami Daily News, Inc.*, 408 So. 2d 666, 667 (Fla. 3d DCA 1982).

[9] *Infra* note 8.

> represents himself [or herself] has a fool for a client" is the product of years of experience by seasoned litigators.[10]

Kay v. Ehrler, 499 U.S. 432, 437 (1991) (Stevens, J., delivering the opinion for a unanimous Court).

"Indeed, we have previously recognized a systematic interest in having a party represented by independent counsel even when the party is a lawyer.[11]" *McNeil v. United States*, 508 U.S. 106, 113 n.10 (1993) (*citing*, *Kay v. Ehrler*, 499 U.S. 432 (1991)).

A few examples, excerpted from the subject Petition, readily show its tortuous structure, lack of arrangement, patent incoherency and inept character; to wit: (i) within her first question presented Petitioner provided, in part, "the U.S.Court [sic] of Appeals . . . by affirming apparently never read the first three (3) pages of the 2nd Amended Complaint that was in the record, which clearly showed that the Federal Rules of Civil Procedure was correctly written . . ."; (ii) within her second question presented Petitioner provided, in part, "[w]hether the U.S. Court of Appeals, 11th Circuit holding F. S. state statute, 119,011(1) [sic], a public record, invalid snd [sic] repugnant to the U.S. Constitutional Amendments, One, Fifth and Fourteenth as well as 42 U.S.C. Section 1983 . . .[12]" (foremost, the

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[10] *Infra* note 8.

[11] *Infra* note 8.

[12] Below, Plaintiff only pled a violation of rights under 42 U.S.C. § 1983 and the 14th amendment of the U.S. (Cont'd)

Eleventh Circuit never even mentioned § 119.011(1), Florida Statutes, in its written opinion; *see Lampkin-Asam v. Volusia County Sch. Bd.*, No. 07-12704, WL 80708 (11th Cir. Jan. 9, 2008) (*per curiam*)); (iii) also, within her second question presented Petitioner provided, in part, "Dr. Lampkin-Asam has two lymphomas named after her that are mutant lymphomas . . ." (even if her assertion is correct, "[t]he contention is irrelevant to any issue in the cause." *N.L.R.B. v. Sands Mfg. Co.*, 306 U.S. 332, 346 (1939)); (iv) Petitioner's "concise" statement of the case, Sup. Ct. R. 14(1)(g), drones on for 24 pages, *I.T.S. Rubber Co. v. Essex Rubber Co.*, 272 U.S. 429, 432 n.2 (1926) ("This rule provides that the brief . . . shall contain, *inter alia*, a concise statement of the case . . ."); and (v) within her scant argument for why the Petition should be granted, Petitioner provided, in part, "[t]he instant case could be attempted murder ONE SINCE CLEARLY ACCORDING TO Sheriff record filed in Deland, Florida . . ." (again, even if her assertion is correct, "[t]he contention is irrelevant to any issue in the cause." *N.L.R.B. v. Sands Mfg. Co.*, 306 U.S. at 346).

It should be clear that the instant Petition, like her pleadings in the district court, was disjointed, repetitive, disorganized, barely comprehensible, confusing, incoherent, clogged with irrelevant factual assertions

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(Cont'd)
Constitution. Therefore, her assertions under the first and fifth amendments of the U.S. Constitution were not preserved for review. *Nelson v. Adams USA, Inc.*, 529 U.S. 460, 469 (2000) ("It is indeed the general rule that issues must be raised in lower courts in order to be preserved as potential grounds of decision in higher courts.").

and just plain unintelligible.[13] The instant Petition only demonstrates that Petitioner should have, as she did twice before several decades ago, engaged counsel to represent her because, as it stands, her Petition is destined for the same fate, as all her other petitions; to wit: "cert. denied." (citations omitted).

III. *Petitioner's Claims Against Respondent Evans Failed, as a Matter of Law.*

A motion to dismiss is appropriate when it is demonstrated "beyond doubt that the plaintiff can prove no set of facts in support of his [or her] claim which would entitle him [or her] to relief."[14] *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). For the purpose of the motion to dismiss, the complaint is construed in the light most favorable to the plaintiff, and all facts alleged by the plaintiff are accepted as true. *Hishon v. King & Spaulding*, 467 U.S. 69, 73 (1984). Regardless of the alleged facts, however, a court may dismiss a complaint on a dispositive issue of law. *Marshall County Bd. of Educ. v. Marshall County Gas Dist.*, 992 F.2d 1171, 1174 (11th Cir. 1993). "Conclusory allegations in the complaint need not be taken as true and the plaintiff must allege sufficient facts to support his [or her] allegations." *Marine Coatings of Ala., Inc. v. United States*, 792 F.2d 1565, 1568 (11th Cir. 1986).

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[13] *Infra* note 8.

[14] *Infra* note 1.

A. *Plaintiff Failed to Allege Facts Sufficient to Support Requisite that Evans Was a State Actor.*

"Constitutional due process protections do not extend to 'private conduct abridging individual rights.' " *Davis v. Prudential Sec., Inc.*, 59 F.3d 1186, 1190 (11th Cir. 1995) (*citing*, quoting *Nat'l Collegiate Athletic Ass'n v. Tarkanian*, 488 U.S. 179, 191 (1988) (*citing*, quoting *Burton v. Wilmington Parking Auth.*, 365 U.S. 715, 722 (1961)). As the Eleventh Circuit stated in *Davis*, "only state action is subject to scrutiny under the Due Process Clause." *Id.* at 1190-91. In that case, the Eleventh Circuit held that the arbitration at issue was a private and not state action, even though the federal arbitration act sought to regulate private arbitration proceedings and even though a district court affirmed the arbitrator's award of punitive damages. *See Davis*, 59 F.3d at 1191. In other words, absent state action, the claim is, essentially, dead on arrival.

In order to state a claim under section 1983, a plaintiff must allege and prove three elements: (1) a deprivation of a constitutionally-protected liberty or property interest; (2) state action; and (3) constitutionally inadequate process. *Cryder v. Oxendine*, 24 F.3d 175, 177 (11th Cir. 1994). The second requirement, state action, means that section 1983, "excludes from its reach private conduct, no matter how discriminatory or wrongful." *Focus on the Family v. Pinellas Suncoast Transit Auth.*, 344 F.3d 1263, 1277 (11th Cir. 2003); *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 936 (1982) (providing the 14th amendment offers no shield against private conduct "however

discriminatory or wrongful") (*citing*, quoting *Civil Rights Cases*, 109 U.S. 3 (1883)).

Stated otherwise,

> [t]o state a claim for relief in an action brought under § 1983, [petitioner] must establish that [s]he[] w[as] deprived of a right secured by the Constitution or laws of the United States, and that the alleged deprivation was committed under color of state law. Like the state-action requirement of the Fourteenth Amendment, the under-color-of-state-law element of § 1983 excludes from its reach "'merely private conduct, no matter how discriminatory or wrongful.'" *Blum v. Yaretsky*, 457 U.S. 991, 1002 (1982) (quoting *Shelley v. Kraemer*, 334 U.S. 1, 13 (1948)). Where, as here, deprivations of rights under the Fourteenth Amendment are alleged, these two requirements converge. *See Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 935, n. 18 (1982).

Am. Mfrs. Mutual Ins. Co. v. Sullivan, 526 U.S. 40, 49-50 & n.8 (1999).

Plaintiff, however, never alleged that Evans' actions constituted "state action." Instead, Plaintiff merely alleged that Evans was "connected to state action" or that she "does have a connection with state action." Plaintiff's sole support for these allegations of connection with state action was her other allegations that Evans "showed she was connected to state action

when she did not have the USIS pay the hospital bill." Plaintiff further alleged that because Evans "has been abusing the Florida Statute 440.134(17) she does have connection with state of Florida action," and that Evans has violated the Plaintiff's "rights of life, liberty, and property under the 14th amendment to the U.S. Constitution." None of these allegations, even taken as true, was sufficient to support a cause of action that requires state action. USIS is not the State of Florida, nor had the Plaintiff so alleged, nor does a private person's alleged "abuse" of a state statute convert that private person's action into state action.

For these and other compelling reasons, all of the Plaintiff's claims against Defendant Evans were properly dismissed with prejudice.

B. *Plaintiff Had Not Alleged Facts Sufficient to Support a Cause of Action Against Evans.*

Plaintiff had not alleged that Evans breached any legal duty to her or violated any law that would give rise to a private cause of action. *See Bus. Alliance for Responsible Dev. v. Storm Water Mgmt.*, 462 F. Supp. 2d 1186, 1189 (N.D. Ala. 2006) ("A complaint alleging the violation of a federal statute . . . does not necessarily state a claim arising under the laws of the United States when Congress has created no private, federal cause of action for the violation of federal law.") (*citing, Merrell Dow Pharm., Inc. v. Thompson*, 478 U.S. 804, 808-09 (1986); other citation omitted). However, the U.S. Congress could not lawfully create a private, federal cause of action under the 14th amendment because this Court has already determined such action must

constitute state action or action by an actor of the state and not a private person. *Blum v. Yaretsky*, 457 U.S. 991, 1002 (1982) (quoting *Shelley v. Kraemer*, 334 U.S. 1, 13 (1948)); *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 935, n. 18 (1982); *Am. Mfrs. Mutual Ins. Co. v. Sullivan*, 526 U.S. 40, 49-50 (1999).

Petitioner's second amended complaint and attachments showed that Plaintiff received care from at least three medical care professionals. Defendant Evans followed up on the Plaintiff's health status, sought out Dr. Gebel's evaluation of her ability to return to work, and informed Plaintiff that her physician said that she was "able to return to Full Duty work as of 11/29/05 with regard to your Worker's Compensation injury.[15]" Plaintiff simply failed to state any legally cognizable claim upon which relief could be granted against Respondent Evans.

For all these and other compelling reasons, all of Plaintiff's claims against Respondent Evans were properly dismissed with prejudice.

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[15] On a motion to dismiss for failure to state a claim, "courts review only the face of the complaint and attachments thereto." *Zlotnick v. Premier Sales Group, Inc.*, 480 F.3d 1281, 1287 (11th Cir. 2007) (*citing*, quoting *Brooks v. Blue Cross & Blue Shield of Fla., Inc.*, 116 F.3d 1364, 1368 (11th Cir. 1997)). The quoted statement above was excerpted from an attached exhibit to Petitioner's pleading (below).

CONCLUSION

Petitioner did not even address and, therefore, failed to establish any compelling reason to enable the Court to exercise its certiorari jurisdiction and then consider the merits of the case. Accordingly, Respondent, Suzanne Evans, R.N., respectfully requests the Petition be denied. Even if the Court might exercise its certiorari jurisdiction, which it should not, nevertheless, there is no basis in law or fact to disturb the lower courts' judgment against Respondent Evans. Thus, even if the Court reaches the merits, which it should not, the judgment below should be affirmed with respect to Respondent, Suzanne Evans, R.N.

In conclusion, Respondent takes the liberty and this opportunity to recommend that, after 30 filings (before the instant Petition) in an institutional Court of limited resources during the past 28 years, it may be time for the Court to issue a decree to preclude any further *pro se* filings by Petitioner, in this Court.[16] *See In re Vey*, 520 U.S. 303, 303-04 (1997) (*per curiam*); *Day v. Day*, 510 U.S. 1, 1-2 (1993) (*per curiam*). The incessant, rising tide of cert. petitions in this Court seems to warrant such a decree.[17]

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[16] Petitioner asserted in her Petition that "[o]n September 18, 1992, I was personally allowed to practice in the Supreme Court of the United States." Petition, at p. 11. In light of the *pro se* Petitioner's repeated, non-cert.-worthy filings in this Court, as well as her disbarment and lack of a license to practice law, the Court may also wish to consider revoking that privilege. *Asam v. Ala. State Bar*, 675 So. 2d 866 (Ala. 1996); *cert. denied*, 519 U.S. 982 (1996). If for no other reason, Respondent deemed this issue worthy of the Court's consideration. *Infra* note 4, 8.

[17] *Infra* note 4, 5.

Respectfully submitted,

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RECORDS AND BRIEFS

No. 07-1359

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SUPREME COURT, U.S.

In The

Supreme Court of the United States

JULIA McCAIN LAMPKIN-ASAM,

Petitioner,

vs.

VOLUSIA COUNTY SCHOOL BOARD, et al.,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

BRIEF IN OPPOSITION OF MICHAEL A. GEBEL, M.D. TO THE PETITION FOR WRIT OF *CERTIORARI*

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QUESTION PRESENTED

Did the Eleventh Circuit Court of Appeals err in affirming the decision of the United States District Court for the Middle District of Florida, Orlando Division, to dismiss the Petitioner's Second Amended Complaint with prejudice for failure to state a claim for which relief could be granted?

INTERESTED PARTIES

The Respondent hereby discloses the following individuals and corporate entities that have an interest in the outcome of this Petition:

Judy Anderson

Honorable David A. Baker, U.S. Magistrate Judge

Sam Boone, CEO, USIS

Brown & Brown, Inc.

Cobb and Cole, P.A.

Mark Corruthers

CorVel Healthcare Corporation

Michael R. D'Lugo, Esquire

Suzanne Evans, RN

Florida Medical Malpractice Joint Underwriting Association (FMMJUA)

Richards H. Ford, Esquire

Michael A. Gebel, M.D.

Karina P. Gonzalez, Esquire

Bruce Hanna, Esquire

Bruce R. Hoffen, M.D.

Charles D. Hood, Jr., Esquire

Katherine Hurst, Esquire

INTERESTED PARTIES – Continued

Julia McCain Lampkin-Asam, Ph.D., J.D.

Sheryl L. Loesch

David E. Mallen, Esquire

Honorable Gregory A. Presnell, U.S. District Judge

Geoffrey D. Ringer, Esquire

Ringer, Henry, Buckley & Seacord, P.A.

Honorable Thomas W. Sculco, Judge Compensation Claims, State of Florida

Division of Administrative Hearings, Orlando District Office

Margaret A. Smith

Smith, Hood, Perkins, Loucks, Stout, Bigman, Lane, and Brock, P.A.

G. Alan Stagmeier, Esquire

USIS, United Self-Insured Services

Volusia County School Board

D. Patricia Wallace, Esquire

Tamara Wenzel, Esquire

Kenneth E. White, Esquire

Wicker, Smith, O'Hara, McCoy & Ford, P.A.

Dr. Al Williams

Steven M. Ziegler, P.A.

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OPINIONS BELOW

Neither the opinion of the United States District Court for the Middle District of Florida nor the opinion of the Eleventh Circuit Court of Appeals was published. Therefore, there is no official citation for either of these opinions. Both opinions have been accurately reproduced in the Appendix to the Petitioners' Petition for Writ of *Certiorari*.

STATEMENT OF THE BASIS OF JURISDICTION

The Petitioner invoked the subject matter jurisdiction of the United States District Court for the Middle District of Florida pursuant to 28 U.S.C. § 1331.

The Eleventh Circuit Court of Appeals had jurisdiction over this matter pursuant to 28 U.S.C. § 1291.

The United States Supreme Court's jurisdiction has been invoked pursuant to 28 U.S.C. § 1254(1).

The opinion of the Eleventh Circuit Court of Appeals was issued on January 8, 2008. The Petition for Writ of *Certiorari* was served on April 5, 2008.

STATEMENT OF THE CASE AND OF THE FACTS

The instant Petition is an effort by Dr. Lampkin-Asam to seek further appellate review of the Circuit Court's affirmance of the District Court's dismissal of her Second Amended Complaint with prejudice. She filed her original Complaint against Dr. Gebel and the remaining Defendants on January 24, 2007. The parties moved to dismiss Dr. Lampkin-Asam's original Complaint, including Dr. Gebel's Motion to Dismiss which was entered on February 20, 2007.

The District Court issued an Order Granting the Parties' Motion to Dismiss on March 1, 2007. This Order Dismissing the original Complaint was without prejudice, and gave Dr. Lampkin-Asam twenty (20) days in which to submit an Amended Complaint.

Dr. Lampkin-Asam filed her Amended Complaint on March 19, 2007. This Amended Complaint named the same Defendants as were named in the original Complaint. Dr. Gebel moved to dismiss the Amended Complaint on March 28, 2007.

The District Court entered an Order Dismissing Dr. Lampkin-Asam's First Amended Complaint on April 16, 2007. In this order, the District Court denied all pending Motions to Dismiss as moot. The District Court gave Dr. Lampkin-Asam twenty (20) days in which to file a Second Amended Complaint. The District Court's order made clear that the Second Amended Complaint would be Dr. Lampkin-Asam's last opportunity to attempt to state a cause of action.

In addition, the April 16, 2007 order provided that the Defendants did not have to respond to the Second Amended Complaint until ordered to do so by the District Court.

Dr. Lampkin-Asam filed her Second Amended Complaint on May 3, 2007. The District Court issued its Order Dismissing the Second Amended Complaint with prejudice on May 31, 2007. Dr. Lampkin-Asam sought appellate review at the Eleventh Circuit Court of Appeal. The Eleventh Circuit affirmed the District Court's dismissal of the Second Amended Complaint in an unpublished opinion dated January 9, 2008. Dr. Lampkin-Asam served her Petition for Writ of *Certiorari* with this Court on April 5, 2008.

The underlying lawsuit is a claim based on various legal theories against numerous Defendants that Dr. Lampkin-Asam filed on her own behalf as a *pro se* Plaintiff. Although she is proceeding *pro se*, at one point in time she was a licensed attorney in the state of Alabama, until she was disbarred. This fact is noteworthy in the instant matter because of the contents of the pleadings Dr. Lampkin-Asam filed with the District Court, and the District Court's very plain and direct warnings to Dr. Lampkin-Asam which she did not heed.

The allegations of the initial Complaint are that Dr. Lampkin-Asam was working as a substitute teacher in Volusia County, Florida. While performing in her capacity as a teac. er, she was assaulted by a student, allegedly resulting in injuries to her head.

As part of her treatment associated with the injuries that she alleges were suffered during this assault, Dr. Lampkin-Asam presented to Michael Gebel, M.D., a Central Florida neurologist.

The allegations of Dr. Lampkin-Asam's Complaint against Dr. Gebel are that after he had performed his evaluation of her, he allegedly changed a medical record. Specifically, Dr. Lampkin-Asam asserts that Dr. Gebel changed a medical record that had originally indicated a 55% disability to a 0% disability, and that this change was made without Dr. Gebel having performed a subsequent physical examination of her. Dr. Lampkin-Asam goes on to assert in both the First Amended Complaint and the Second Amended Complaint that Dr. Gebel, a private neurologist, was a state actor for purposes of stating a cause of action under 42 U.S.C. § 1983.

Dr. Gebel moved to dismiss Dr. Lampkin-Asam's original Complaint on the basis that it failed to state a cause of action for relief under § 1983 because Dr. Gebel is not a state actor. The remaining co-Defendants also filed Motions to Dismiss based upon Dr. Lampkin-Asam's failure to state a cause of action for which relief could be granted.

The District Court dismissed Dr. Lampkin-Asam's initial Complaint without prejudice on March 1, 2007. In the order, the District Court described the Complaint as "disjointed, repetitive, disorganized and barely comprehensible." The District Court noted in the body of the order that Dr. Lampkin-Asam has

both a juris doctor and doctorate of philosophy degree, and that she had previously practiced law in Alabama. The District Court noted that federal courts typically grant greater latitude to the pleadings of *pro se* plaintiffs, but that the Complaint in this case was "unacceptable by any standard, and particularly from a former attorney." The District Court then went on to attempt to steer Dr. Lampkin-Asam in the right direction with regard to the contents of her pleadings.

This admonition went unheeded, and Dr. Lampkin-Asam filed her Amended Complaint on March 19, 2007. This document suffered from the same flaws as the original Complaint. The First Amended Complaint also contained the same allegations against Dr. Gebel, namely that he inappropriately changed the disability percentage on a medical record which impacted Dr. Lampkin-Asam's ability to collect workers' compensation benefits, and further that Dr. Gebel was a state actor for the purposes of filing a claim under 42 U.S.C. § 1983. Dr. Gebel responded with a Motion to Dismiss which was filed on March 28, 2007. This Motion to Dismiss paralleled the argument contained within the original Motion to Dismiss, namely that Dr. Lampkin-Asam had failed to state a cause of action for which relief could be granted, and therefore the Amended Complaint should be dismissed.

The District Court then issued an order *sua sponte* on April 16, 2007 which had the effect of dismissing the Amended Complaint. The District Court revisited the language of the original order, and

then commented that in the Amended Complaint, the "writing remains disjointed, repetitive, disorganized and barely comprehensible." The District Court concluded that the Amended Complaint, "remains an unacceptable shotgun pleading." *Citing* ***Strategic Income Fund, LLC v. Spear, Leeds & Kellogg Corporation***, 305 F.3d 1293, 1295 n.10 (11th Cir. 2002). As a result, the District Court dismissed the Amended Complaint without prejudice, and denied all pending Motions to Dismiss as moot. The District Court gave Dr. Lampkin-Asam, "one final chance to draft an amended complaint that satisfies the requirements of the Federal Rules of Civil Procedure." In addition, the District Court ruled that the Defendants would not have to respond to the pleading or any motion filed in the interim until directed to do so by the court.

Dr. Lampkin-Asam filed her Second Amended Complaint on May 3, 2007. The Second Amended Complaint is no different in its substance or in its style from its two predecessors. The allegations as to Dr. Gebel remain the same: namely that he improperly altered medical records which impacted Dr. Lampkin-Asam's ability to collect workers' compensation benefits, and that Dr. Gebel was acting in his capacity as a state actor, thereby triggering the District Court's jurisdiction pursuant to 42 U.S.C. § 1983. Given the District Court's ruling on April 16, 2007, Dr. Gebel did not file a Motion to Dismiss the Second Amended Complaint, although the Second

Amended Complaint suffered from the same deficiencies as the two earlier Complaints.

The District Court issued its Final Order Dismissing the Second Amended Complaint with prejudice on May 31, 2007. The District Court reviewed the procedural history of this case, then began an analysis of shotgun pleadings, which were defined as those pleadings "that incorporate every antecedent allegation by reference into each subsequent claim for relief or affirmative defense." ***Wagner v. First Horizon Pharmaceutical Corp.***, 464 F.3d 1273, 1279 (11th Cir. 2006). The District Court stated that Dr. Lampkin-Asam ignored repeated admonitions from the court regarding the contents of her pleadings. In concluding its Final Order of Dismissal, the District Court stated:

> Asam was warned that this was her final opportunity to draft an acceptable complaint. In consideration of the foregoing, it is hereby ordered and adjudged that the Second Amended Complaint (document 83) is dismissed with prejudice. All pending motions are denied as moot, and the clerk is directed to close this case.

The Circuit Court affirmed the District Court in all respects. The briefs that Dr. Lampkin-Asam filed with the Eleventh Circuit, as is the case with the Petition filed in this Court, suffer from the same infirmities that undermined her filings with the District Court. There is no coherence to any of the filings, which reflect a complete failure to state a

cause of action against Dr. Gebel (or any other defendant) at the District Court level, and the absence of any reasonable argument to support a reversal at the Circuit Court, or to support the issuance of a Writ of *Certiorari* here. In the absence of any coherent argument to support her contentions, Dr. Lampkin-Asam's Petition for Writ of *Certiorari* should be denied.

SUMMARY OF THE ARGUMENT

Dr. Lampkin-Asam filed an original Complaint that failed to state a cause of action for which relief could be granted against Dr. Gebel. Moreover, the initial Complaint constituted a shotgun pleading that was so incoherent as to border on being incomprehensible. The District Court recognized this, and dismissed the original Complaint without prejudice, giving Dr. Lampkin-Asam an opportunity to correct her mistakes.

On two separate occasions, Dr. Lampkin-Asam simply refused to do so. Instead, both the First Amended Complaint and the Second Amended Complaint suffered from the same deficiencies as the original Complaint. Dr. Lampkin-Asam refused to heed the warnings contained within the orders issued by the District Court. She was given ample opportunity to correct these mistakes, and repeatedly failed to do so. The District Court's patience appropriately wore out with Dr. Lampkin-Asam's third failed

attempt at filing a pleading that met with the requirements of the Federal Rules of Civil Procedure. As such, the District Court properly dismissed Dr. Lampkin-Asam's Second Amended Complaint with prejudice. The Eleventh Circuit Court of Appeals reviewed the Complaints submitted to the District Court, and agreed that the Complaints all failed to state a cause of action for which relief could be granted. Dr. Lampkin-Asam has failed to articulate any basis to support further review, and therefore her Petition for Writ of *Certiorari* should be denied.

ARGUMENT

THE DISTRICT COURT PROPERLY DISMISSED DR. LAMPKIN-ASAM'S SECOND AMENDED COMPLAINT WITH PREJUDICE, AS SHE HAD REPEATED OPPORTUNITIES TO AMEND HER PLEADING, BUT SHE STEADFASTLY REFUSED TO HEED THE WARNINGS OF THE DISTRICT COURT TO FOLLOW THE FEDERAL RULES OF CIVIL PROCEDURE.

The instant Petition is an effort by Dr. Lampkin-Asam to have this Court review the affirmance issued by the Eleventh Circuit of the order of the District Court which had the effect of dismissing Dr. Lampkin-Asam's Second Amended Complaint with prejudice. There is no basis contained within the Petition that would support the issuance of a writ as Dr. Lampkin-Asam requests. The record reveals that

Dr. Lampkin-Asam filed what can at best be described as an unwieldy original Complaint, with confusing allegations spread across a broad spectrum of Defendants, without any cohesion or clarity to the written allegations. The District Court recognized this in the order dismissing the original Complaint without prejudice, and in fact provided Dr. Lampkin-Asam with guideposts to assist her in drafting an appropriate pleading. Unfortunately, Dr. Lampkin-Asam refused to follow the guidance that was provided in the District Court's order.

Dr. Lampkin-Asam's First Amended Complaint was similar to the original Complaint in its lack of organization. Dr. Gebel moved to dismiss both the original Complaint and the First Amended Complaint for the failure to state a cause of action for which relief could be granted. Indeed, there is no way to assert a federal claim for violation of 42 U.S.C. § 1983 against Dr. Gebel, a private physician. However, the District Court never reached this issue, instead concluding that Dr. Lampkin-Asam's First Amended Complaint suffered from the same deficiencies as the original Complaint. Therefore, the District Court dismissed the First Amended Complaint once again, and gave Dr. Lampkin-Asam one final opportunity to comply with the Federal Rules of Civil Procedure.

This Dr. Lampkin-Asam steadfastly refused to do. Instead, she filed a Second Amended Complaint that is just as incomprehensible as the first two versions of her lawsuit. Dr. Lampkin-Asam refused to accept any of the suggestions contained within

the District Court's previous two orders. Instead, Dr. Lampkin-Asam raised the same incoherent charges against the various Defendants. The District Court properly recognized this Second Amended Complaint as being deficient for the same reasons that the original two Complaints had been deficient. The District Court gave Dr. Lampkin-Asam ample opportunity to correct the deficiencies within her original pleadings, and she simply refused to do so.

There is nothing contained within Dr. Lampkin-Asam's Petition for Writ of *Certiorari* that compels any conclusion other than the Petition should be denied. In fact, the Petition filed with this Court closely resembles the Complaints that were ultimately rejected at the District Court level. The allegations against the various Appellees are haphazard, incoherent, and likewise fail to state a cause of action for which relief can be granted. There was no allegation in any of the complaints filed with the District Court that raised a colorable argument to support a cause of action against Dr. Gebel. There was likewise nothing within the Petition to support the issuance of a writ in this case. In the absence of any coherent argument to support a reversal of the District Court's dismissal of the Second Amended Complaint with prejudice, the District Court's order must be allowed to stand, and this Court should deny Dr. Lampkin-Asam's Petition for Writ of *Certiorari*.

CONCLUSION

For the reasons stated herein, the Respondents respectfully request that this Court deny Dr. Lampkin-Asam's Petition for Writ of *Certiorari*, and affirm the District Court and the Circuit Court in all respects.

Respectfully submitted,

MICHAEL R. D'LUGO
Florida Bar No. 0040710
WICKER, SMITH, O'HARA,
McCOY & FORD, P.A.
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SUPREME COURT, U.S.

No. 07-1374

In the

SUPREME COURT OF THE UNITED STATES

DR. JULIA McCAIN LAMPKIN-ASAM

Petitioner

vs.

VOLUSIA COUNTY SCHOOL BOARD, et. al.

Respondents

On Petition for Writ of Certiorari

U.S. Court of Appeals, Eleventh Circuit

REPLY BRIEF by Dr. Lampkin-Asam

PETITION FOR WRIT OF CERTIORARI

Julia McCain Lampkin Asam, Ph.D.,J.D., Pro Se
3249 Tealwood Terrace
Deltona, Florida 32725
(386) 532 6270

REPLY BRIEF TO

OBJECTIONS TO NURSE SUZANNE EVANS,

AND MR. MICHAEL GEBEL

DEFENDANTS/APPELLEES BELOW AND RESPONDENTS

Dr. Lampkin-Asam objects to Mr. Muniz, Respondent Brief for Suzanne Evans, RN and not representing anyone else but Ms. Evans writing law cases that are irrelevant and prejudicial which are not all Supreme Court cases because Dr. Lampkin-Asam did not attend law school until after she was 50 years of age and most of the time she had suppose to be good lawyers that lost in the Supreme Court of the United States and most of the time was because Dr. Lampkin-Asam was before 1988 concerned with cancer research science because Dr. Lampkin-Asam took care of her elderly mother until after 1988 before she started to practice law.

Because Dr. Lampkin-Asam was the first woman to run for Circuit Judge in Tuscaloosa County in 1992 more jealously developed and she was wrongfully disbarred because someone stole her timely filed 26 page answer to the Alabama bar in the Supreme Court of Alabama because she was DEEMED (Emphasis added) because the

friends of the opponent lied pretending she was not qualified

while working on a model lymphoma known as P1798 Sensitive and resistant to cancer chemotherapy drugs used in research while she was at the University of Miami working under a contract of the Cancer Chemotherapy contract testing new drugs for the lymphomas P1798

Sensitive (S) and Resistant (R) to Steroids (Cortisone and related cancer drugs such as 9-alpha-Flouro-hydrocortisone and other cancer drugs.

Lampkin-Asam was working on vaccines and Antiserums against advanced lymphomas. Dr. Lampkin-Asam was the first person to obtain a U.S. Patent with the title of Method of Making Anti-Lymphoma Antibodies" which was obtained in 1971. Dr. Lampkin-Asam was the first person to induce mutant lymphomas with DNA isolated from lymphoma and explained in detail in the said U.S. Patent in 1971 and was named after her as JL 1161 which is my maiden name initials and the month of November 11, 1961. Mutant proteins isolated from mutant induced lymphomas can cause lymphomas to reduce and cure certain inbred BALB/c mice.

This type of research in lymphomas caused all kinds of jealously and caused lawsuits that were

unbelievable. However, Dr. Lampkin-Asam, now 77 years old was working as a substitute teacher at age 74 when she was hit in the back of her head while she was teaching math at Volusia County School Board School, known as Deltona Middle School when the unprovoked 13-year old student hit her with a weapon-metal causing her to fall towards the floor and causing her numerous permanent damages to her head and body as stated below and documented with exhibits which disappeared in the U.S. Court of Appeals, 11th Circuit (see Appendix F in Petition for Writ of Certiorari.

The instant case was a documented case with numerous exhibits and even a deposition taken before the federal case was filed on January 24, 2007. The first page on the Statement of the Case concerning violation of civil procedure rules were not true as stated in her Appellant Brief to the U.S. Court of Appeals with the law presented and also see the Petition for Writ of Certiorari. The Petitioner did not fail to comply with district court rules since she was a wounded lawyer telling it like it was with documented exhibits which disappeared from the U.S. Court of Appeals, 11th Circuit as shown in Appendix F in the Petition for Writ of

Certiorari. The Hon. Judge Presnell pretended a Shot Gun pleading when it was not since documented with exhibits.

See p. 8 reprinted here showing permanent damages to Dr. Lampkin-Asam damages to her head and body because she was hit in the back of her head by a student with a weapon which was a felony, that the administrator, Mark Corruthers tried to make a cover-up a criminal act of violence in his school by the suspect who was 13-years of age and names of juveniles have to be protected.

After Dr. Lampkin-Asam saw a neurologist in 2008 it was determined that she had residuals from the incident of the following: Post traumatic headache, Post concussion syndrome, Cranial syndrome, Occipital neuralgia, and Post traumatic Vestibuliopathy. Dr. Asam due to head injury walks with cane since she has loss balance. She fell first face into concrete on May 23, 2006 because of loss of balance. She has loss control of her bladder because of the damages to her head. Dr. Lampkin-Asam had a heart attack known as MI on 8/26/05 while an EKG was on because she had a concussion. She also had atrial fibrillation of 137 beats per minute on 8/26/05. On 10/4/05 she still had atrial fibrillation, closed head injury, and memory disturbance. See Exhibit H. In a cath test of her heart she had 50% block of the proximal right coronary artery because of the incident. See Exhibit U3b.

p. 2, 2nd paragraph 24 pages, not 26 pages. P. 3 the U.S. Court of Appeals, 11th Circuit, failed to review the instant case de novo and used an excessive high standard for a wounded attorney that now is 77 years old. Hon. Judge Presnell was on notice of a wounded lawyer since he did have custody of the documented exhibits before they disappeared in the U.S. Court of Appeals, 11th Circuit. Especially he had constructive notice of atrial fibrillation, closed head injury and memory disturbance because of the concussion which was found in the hospital. Further, in Exhibit H she was ordered not work until cleared by neurologist and cardiologist.

Since this Reply brief is also covering the Brief written on May 29, 2008 by Mr. Michael DiLugo, attorney representing Dr. Gebel I am reporting that the Defendant Dr. Gebel on 11/29/o5 did see me as his patient and did write in his medical record after examination that I had 55% disability on p. 4 of his medical record which became exhibit X4. However, since Ms. Evans had to authorize payment of his fees she had later than 11/29/05 for Dr. Gebel to illegally change his medical record of 11/29/05 to return to full duty which was a reduction of 55% to 0% WHICH CAUSED DR. Lmpkin-Asam to lose her WC Compensation. Dr.

Gebel illegally changed the disability from 55% to 0% without seeing the patient again, myself. Further there was not to be any return to duty until a cardiologist signed to return to duty which has not been as of the date of writing this Reply Brief, which is 6/5/08. Further the Volusia County School Board had already terminated Dr. Lampkin-Asam as a substitute teacher on 9/15/05 but at the time of Dr. Gebels "return to full duty" she had not any knowledge that she had been terminated since she was terminated because she was hit in back of her head, a felony by a student, 13-years old while she was teaching math. Further, Dr. Lampkin-Asam was terminated one day after 9/14/05 she reported the incident of August 24, 2005 to the Volusia County Sheriff. See Number 05 31030 in the Deland, Florida Sheriff files of Volusia County Sheriffs. This illegal act by the Volusia County.

Dr. Lampkin-Asam was terminated wrongfully terminated since retaliation since Mr. Corruthers, Assistant Principal of Deltona Middle School attempted to cover up the felony by the student because Mr. Corruthers wrote a phantom teacher evaluation on August 25, 2005 by fax to the Director of Personnel, Larry Lewis on p. 19 and 20 of the Petition for Writ of Certiorari for what Mr. Corruthers said and what the content of Mr. Larry

Lewis letter also dated August 25, 2005 without any investigation of the incident of a felony by a student on August 24, 2005. Also, on p. 20 note it was the Director of Personnel that put the FALSE DOCUMENT (Emphasis added) Mr. Corruthers in the Personnel file of Dr. Lampkin-Asam. The fact that the Personnel file being a public record was presented below especially since a public school with a teacher with public school certification.

p. 4 second paragraph 2 is ridiculous by Mr, Muniz since the Petitioner had the right to timely file a Petition for Writ of Certiorari.

The cases mentioned on p. 5 beginning with Asam are irrelevant and prejudicial since D. Lampkin-Asam was qualified to run in 1992 and 1994 for the position for Circuit Judge and all the Asam cases are political propaganda and is no reason to not accept jurisdiction for the instant case. Also, note that the Hon. Magistrate Judge Baker noted in the Motion to Strike by Mr. Hoods irrelevant and prejudicial lists which included the political defendants that were friends of my opponent ruled that the said case in question he noted the objection and would not be a reason to dismiss the case, See ruling on document 77 in the federal court in Orlando, Florida.

None of the cases listed in the first paragraph of p. 6 are concerned with the incident case. Further, as stated above, Dr. Lampkin-Asam did not practice law until after August 1988 .

The Honorable Supreme Court should exercise jurisdiction when many teachers, students, and other school personnel are being injured and the schools are trying to hide the violence by different ways to try to influence the court. However, this type of behavior by schools is sending the wrong message to the terrible gangs in the schools today, when more and more teens are committing crimes in and out of schools. See p. 28 and p. 29 number 2 which Mr, Menez did not respond in his brief.

Dr. Lampkin-Asam did respond to Rule 10 of the Rules of the Supreme Court of the United states. See p. 27 and 28 reprinted in the Reply Brief for the convenience of the court showing reasons for granting the Petition and the Merits Brief should be allowed by Dr. Lampkin-Asam.

On p. 7, the Asam case is not Julia Asam in Asam v. VA. On p. 8, Mr. Muniz is wasting the time of the honorable court in listing more political cases and political opponent and his friends, and another Asam case by another Asam. Also, Mr. Muniz is wasting the time of the Court on p. 9.

As to Question Presented Number II, the Petitioner has never written anything that is unintelligible. Dr. Lampkin-Asam has personally written over 31 scientific medical publications in medical journal and books and even a Review in the field of lymphomas. Further, at the time she started to work in the Volusia County School Board she has in her personnel file 22 listing of publications.

Mr. Muniz never read the Supreme Court of Alabama case in which Asam was DEEMED WRONGFULLY DISBARRED BECAUSE THE Supreme Court of Alabama could not find the stolen in the Supreme Court of Alabama, 26-page answer that was also in the transcript of the Alabama Bar as Exhibit R-1.

As to Mr. Muniz trying to defame Dr. Lampkin-Asam in Cancer Research he obviously does not know what he is talking about. 22 publications in medical journals and books on Lymphomas are listed in Dr. Lampkin-Asam Personnel file of the Volusia County School Board. Unfortunately, Mr. hood had a brain cancer removed in the same hospital as the Hon. Teddy Kennedy and Mr. Hood by blocking the Volusia County School Board case with his attempted "smear" OF LISTING CASES

BEFORE 1988 i.e. Mr. Hood has been preventing the development of vaccines and antiserums on lymphomas and other cancers by blocking Dr. Lampkin-Asam who was trained under her National Science Foundation Pre-doctoral fellowship for her Ph.D. at the George Washington University. Her Ph. D. Dissertation was on the development of the P1798 model S and R Lymphomas now used in many Cancer Labs. Of the world, and Dr. Lampkin-Asam has written a review of these laboratories on the P1798 lymphomas. See U.S. Patent, 1971 on MUTANT LYMPHOMAS JL 1161 and JL762. She has worked on mice, rabbits, Monkeys and on the molecular level for Cancer Research. The study of Mutant Proteins from Mutant Lymphomas will help to develop the vaccines and antiserums for humans in the future.

In the Miami News case a doctor who was jealous of the work by Dr. Lampkin-Hibbard at the time my first married name, tried to defame me by her false statements about the P1798 lymphomas at the same time she was attempting to take over my cancer project with P1798, In the Miami News case an attorney also came down with cancer and was trying to block cancer research. This particular case was before Dr. Lampkin-Asam became an attorney and has absolutely nothing to do with the current case as Mr. Muniz is pretending, (p.15).

Mr. Hood, Attorney for the Volusia County School Board, Mr. Hanna Attorney for USIS insurance for the School Board and Mr. Ringer Attorney for Dr. Hoffen have not timely filed any brief as of the date of writing the opposition for respondent brief and have not made a request for extension of time to write.

p. 17, end of the first paragraph near end of the sheriff report is important since the suspect claimed he did not know what happened but he was in the classroom. Some of the students I know were afraid to act as witness because they were scared of gangs. See p. 29 what happened in the Deland Middle School who planned to kill other students in the cafeteria for no real reason.

REASONS FOR GRANTING THE PETITION.

2. The instant case could be attempted murder ONE SINCE CLEARLY ACCORDING TO Sheriff record filed in Deland, Florida for the incident of August 24, 2005 since an intentional act since the student who brought a weapon to the school clearly intended to hit a teacher when he was unprovoked. The public is concerned by the killing of students, teachers and administrator both on the high school, and at universities and

now on March 14, 2008 on television and on March 15, 2008 reported in the Orlando Sentinel, that "the boy threatened to lock the cafeteria doors during one of the lunch periods and shoot everyone inside."

The three 13 year-old seventh grade students who plotted the school shooting, ... "threaten to shoot as many students as possible and then kill themselves. ..."

'called a 'plot' after one of the teens posted on the MySpace page a picture of a tombstone , satanic references and admiration for the shooters in 1999 massacre at Columbine High School in Colorado"...

From first page of Orlando Sentinel, Local and State, with title of "Cops: 3 teens plotted school shooting" with subtitle:" The 13-year-olds allegedly tried to get a gun to kill Deland Middle School students, then themselves"...

P. 19 bottom of page Ms. Evans, RN was not sued under the 42 U.S.C. Section 1983, perhaps Muniz did not read that fact.

On p. 21, Mr. Muniz only represents Ms. Evans and I have no report that he represents USIS, the Volusia County School Board insurance.

Ms. Evans from the beginning after the incident of August 24, 2005, infringed in Dr. Asam's right to proper medical care because she was originally

BEST AVAILABLE COPY

sending me to an unlicensed physician, whose secretary could not tell me how to get to the office and was the reason I checked on whether he had a medical license to practice medicine or not. Ms. Evans would not authorize me to go back to Jena Medical (See Exhibit H) since I had no money to pay for the doctor. Ms. Evans with Dr. Mathias pretending the heart condition I DEVELOPED FROM THE HARD HIT ON MY HEAD WAS PRE-EXISTING CONDITION WHEN I NEVER HAD A HEART ATTACK BEFORE WHICH HAPPENED THE HOSPITAL 8/26/05 ER ROOM. I HAD MI AND HEART BEATS IN ATRIAL FIBRILLATION OF 137 PER MINUTE.

Because Ms. Evans did not provide proper medical care for myself being hit in the back of my head my head is still swollen 6/5/08 and a blood vessel broke in my head causing me to have nose and mouth bleeding. The last time my nose bleeding took place was last night 6/4/08; plus, there is a dent in my head because Ms. Evans did not timely provide medical care and she said "Just put ice on it" How can I put ice on it when the blood vessel is inside my head. As you will see I was finally able to se an expert neurologist that stated my post traumatic headache was due to occipital neuralgia. See 8 of Petition for Writ of Certiorari.

Further Ms. Evans was the one for Dr. Gebel making an inconsistent statement when he illegally changed his own medical record discussed above. Since Dr. Gebel wrote a MRI prescription about head trauma.

CONCLUSION

The Petitioner has clearly presented compelling reasons for the Petition for Writ of Certiorari to be granted so that she can write a Merits Brief especially since the Exhibits that documented the the complaints made disappeared from the U.S. District Court of Appeals, 11th Circuit. See Appendix F.

The Petition for Writ of Certiorari should be granted.

Respectfully submitted,

Julia McCain Lampkin-Asam

Date

6/7/08

Julia McCain Lampkin-Asam, Ph.D.,J.D., Pro Se
Petitioner
Substitute teacher and Cancer Scientist
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PAGES MISSING IN ORIGINAL

Orlando Sentinel
Sunday, November 20, 2005
DISTRICT OWES TEACHER AN APOLOGY
Our position: The victim should not be blamed for a student's violent behavior.

Many students greet the idea of a substitute teacher in the classroom as a mini vacation from assignments and an excuse to misbehave.
That's nothing new.
But when mouthing off and silly pranks escalate to violence against the substitute teacher, something is terribly wrong, particularly when that teacher is blamed for the violence.
That's what happened to Julia Lampkin-Asam, who was a substitute teacher in a Deltona Middle School math class when someone struck her in the head from behind. She had a concussion then a heart attack, which she says was a result of her injury. Then, to make matters worse, she was reprimanded for "unsatisfactory performance of duties" in a document added to her personnel file that says she "lacks control of student contact."
That's outrageous.
During the four years Ms. Lampkin-Asam worked as a substitute teacher in Volusia County schools, she received no complaints until she was inappropriately blamed for her attack.
Meanwhile, her attacker has gone free. No one admits witnessing the incident, so no one was punished – except Ms. Lampkin-Asam.

APPENDIX R

Deltona Middle School asked that she receive no further assignments there, and she has been warned that any additional reports of unsatisfactory performance will result in the removal of her name from the district's list of approved substitute teachers.

What is the district teaching students about personal responsibility? It's as if the schools were operating under some strangely morphed slogan: Students don't hurt teachers; teachers who don't control students hurt teachers.

That's not fair.

Yes, classroom management skills are vital for any teacher – permanent or substitute – to master. But Ms. Lampkin-Asam's attack is no proof that she is lacking in those skills.

In Volusia, all substitute teachers are required to attend a day of training that covers classroom management along with curriculum, instruction techniques and other topics.

An additional day of mandatory training will be added in January.

The district has also formed a Substitute Teacher Committee that is working with the personnel division to offer other training opportunites. A session on classroom management is scheduled for March.

Good ideas, but they are no panacea.

If Volusia school officials think that any amount of teacher training will protect a teacher from the miscreant deeds of a recklessly violent student, they get an F in common sense.

Ms. Lampkin-Asam's reprimand should be removed from her file and replaced with a letter of apology. To blame her for the violence perpetrated against her unfairly adds a piercing insult to her injuries.

ABSTRACT OF DISSERTATION
THE RESPONSE TO CORTISONE AND RELATED
STEROIDS AND THE DEVELOPMENT OF CORTISONE
RESIDSTANCE IN A CORTISONE-SENSITIVE
LYMPHOSARCOMA OF THE MOUSE

A lymphosarcoma, designated P1798, originating in the thymus of a stilbestrol-treated BALB/c male mouse was transplanted as a subcutaneous and ascetic neoplasm. The growth of this neoplasm was found to be strikingly inhibited by cortisone. In certain experiments, cortisone treatment initiated 24 hours after tumor inoculation completely inhibited the development of subcutaneous tumor.

Cortisone induced virtually complete regression of established subcutaneous tumors in three to six days; however, following regression the tumors reappeared. An ascetic line was developed which responded in the same manner as the established subcutaneous graft by undergoing profound regression following administration of cortisone.

APPENDIX S

Cortisone resistance was developed by inducing incomplete regressions with daily doses of 25 mc/Kgm of cortisone and by allowing regrowth to occur each time before subsequent treatments. The cortisone-resistant line continued to be resistant for seven transfer generations in the absence of cortisone.

DOCA stimulated the growth of mice bearing P1798 sensitive line and resistant to cortisone line.

Prednisone was found to be more potent than cortisone, but when prednisone was given to mice with the cortisone-resistant line cross-resistance was indicated.

Amethopterin profoundly inhibits the growth of the resistant as well as the sensitive line of the neoplasm P1798. Combinations of cortisone and antimetabolites have more powerful inhibitory effects on P1798 than either alone.

University of Central Florida
Department of Molecular Biology and Microbiology
Oct. 23, 2000

To Whom It May Concern:

I would like to confirm that Dr. Julia Asam attended and audited my BSC 3404, Quantitative Biological Methods course during Summer A term

registered for the course she would have been in the B grade range. Techniques performed in the lab included SDS-PAGE, Western blotting, enzyme assays and protein determinations, restriction enzyme digestion of DNA, transformation, agarose gel electrophoresis of DNA and PCR. I am confident that she has gained knowledge about each of these techniques covered in our course.

Sincerely,
Roseann S. White, Professor

INDEX

Number of group of Exhibits	Exibits listed in Group of Exhibits
1	Author Ex (Lym) 2a and b
2	Grant Proposal Application Excerpts by National Institute of Health (National Cancer Institute) on P1798 Model Lymphomas Developed by Dr. Lampkin-Asam. Ex (Lym) 6a and b
3	Notice sent by fax Chairman Volusia Counry School Board to Judy Anderson. Notice was giving the school board the opportunity to retract the false, defamatory, libelous and stigmatizing Ex I_{1a} phantom teacher evaluation of the incident/accident that happen on August 24, 2005 when Dr. Lampkin-Asam was

teaching math when she was a victim of a felony crime when she was hit in the back of her head by a eighth grade student (13 years old) with a weapon when he was not provoked. Mr. Hood, attorney was personally served with same Notice, others served with same notice were Dr. Margaret A. Smith and Mark Corruthers, Assistant Principal, the author of the phantom teacher evaluation (Ex I_{1a}) No one retracted the false teacher evaluation; therefore, the federal case needed to be filed after the WC was illegally cut off when Dr. Lampkin-Asam had head and body damages as described in the instant case. See Ex L, Impeachment. Ex $I_{1a \text{ and } b}$ and Ex $I_{2a \text{ and } b}$ Phantom teacher evaluation sent by Mark Corruthers, Assistant Principal of School on 8/25/07 on same day incident reported without any investigation.

5 Reported to Sheriff on 9/14/05 since Assistant Principal failed to report the felony crime.

5a Ex C_1 and C_2.

5b See Ex $A1_a$ the date 9/15/05 Dr. Lampkin-Asam was terminated wrongfully since retaliation, In other

appointed by Evans, RN,
See diagnosis: Closed head injury, atrial fibrillation, memory disturbance. See No duty until cleared by specialist, neurologist and cardiologist, and not cleared by cardiologist for 2 years.

9 Ex S_{1a} EKG taken 8/26/05 at hospital, S-2, S-3, and Ex u3b showing 50% Heart block with cath test.

10 From Deposition of Dr. B. Hoffen dated 1/8/07 Ex of pages 23, 24, and 32

10a Pages 23, 24 under oath

10b Page 32 under oath about false statements by Dr. Hoffen.

11 Ex J_2 dated 9/1/07 that became EX M when Mr. Mark Corruthers signed according to fax date on 9/7/05, the date Mr. Corruthers accepted the liability of the felony crime against Dr. Lampkin-Asam for the Volusia County School Board. This Ex M is inconsistent with Mr. Corruthers phantom teacher evaluation, Ex I_{1a} .

12a See Ex O, Concussion on 8/26/05 Ct scan of head in hospital,
"NO FOCAL ABNORMALITIES AND NO SIGNIFICANT INTERVAL CHANGES".
See Exhibit Q by Paul P. Slavak which is impeached by Ex O. Dr. Asam had never seen Dr. Slavak. Ex O showed no

Evans, RN for Dr. Gebel.

Dr. Gebel impeached his on Ex P prescription because he changed the medical record from "head trauma" with 55% disability for "Full duty" but cardiologist did not grant any "full duty". See Ex H.

Necessary for both neurologist and cardiologist

13 Teacher's certification from Department of Education.

State of Florida and Experience.

See Ex K-1, K-2, K-3, K-4, K-5, K-6, K-7, K-8, K-9, K-10 Ex K-11, and Ex 12

14 For Cancer Research of Dr. Julia McCain Lampkin-Asam (formerly Dr. Lampkin-Hibbard), See group of Exhibits (Lym) {for lymphomas} and Book written by Dr. Lampkin-Asam attached to (Lym) exhibits filed in court below, See Ex DD_1 and DD_2 showing radiation protection pilot experiments found in her book LYMPHOMAS: Regressions. Carcinogenesis and Prevention. and Prevention, 1966. Dr. Lampkin-Asam (Hibbard) cancer research publications in medical journals and books are listed in the Exhibits (Lym) group that was filed below in the court. See U.S. Patent #03/574,828. See Mutant Lymphomas named after Julia Lampkin, (JL), JL 1161, DNA induced Lymphoma and

JL762, RNA induced Lymphoma. Pictures of malignant cells attached as exhibits. Also, see abstracts published of future cancer research which have been delayed because Dr. Lampkin-Asam was a victim of a violent crime in A Volusia County School Board, school, at Deltona Middle School and the Volusia County School Board has not paid the first hospital bill for Dr. Lampkin-Asam's injuries to her head and body.

For other exhibits in the instant case, please see Document report 77, found in the Record Excerpts filed in this case 07-12704 B, which clearly showed that Dr. Lampkin-Asam was wrongly disbarred because she she ran in two political campaigns for Circuit Judge and was about to run for the U.S. Senate where she interned. Dr. Lampkin-Asam was deemed disbarred in the Supreme Court of Alabama because someone (inside job) illegally removed her 26 page answer which the justice at the time of his writing deemed disbarred since the said answers were missing in the Supreme Court of Alabama. Dr. Lampkin-Asam did not know about the missing answers until the case has already been deemed to be a disbarment of her, and published.

Respectfully submitted,

Julia McCain Lampkin Asam

Date

6/7/08

Julia McCain Lampkin-Asam, Ph.D.,J.D., Pro Se Petitioner
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(5)

No. 07-1359

In the

SUPREME COURT OF THE UNITED STATES

DR. JULIA McCAIN LAMPKIN-ASAM

Petitioner

vs.

VOLUSIA COUNTY SCHOOL BOARD, et. al.

Respondents

On Petition for Writ of Certiorari

U.S. Court of Appeals, Eleventh Circuit

PETITION FOR REHEARING

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Friedlander v. Nims, 755 F. 2d 810, 811, 813-814, (11th Cir. 1985). 7

Gilder Lucas v. Elmore County Bd. Of Educ. 399 F. Supp. 2d 1267, 2005, WL 302824, 205 Ed. Law Rep., M.D. Ala., October 26, 2005. 8

Monell v. Department of Social Services of the City of New York 436 U.S. 658, L. Ed. 611, 98 S. Ct. 2018 (1978). 2

Motes v. Myers 810 F. 2d 1055 (11th Cir. 1987). 7

Solomon v. Walgreen Co., 975 F. 2d 1086, 1089, 5th Cir. 1992). 2

FEDERAL STATUTES

42 U.S.C. Section 1983 7

FLORIDA STATUTE

119.011(1) 9

ARGUMENT

Dr. Julia McCain Lampkin-Asam, Petitioner incorporates all writings in case 07 1359 into the Petition for Rehearing as if rewritten in said document.

Dr. Lampkin-Asam, a substitute teacher, noticed the sheriff office of the felony of the 13-year old student that sneaked up behind her and hit her in the back of her head with a weapon (metal) on August 24, 2005. The student was unprovoked since he had been absent and had not participated in school activities in the math class. Dr. Lampkin-Asam made the report on 9/14/05; however the next day she was terminated on 9/15/05 and received no notice of termination as a substitute teacher or any due process since she had been noticed by the doctor not to report for duty until both cardiologist and a neurologist had released her because of her injuries to report to work.

The school did not have right to terminate me just because I reported a crime of a violent act that has caused me permanent damages to my head and body because before I was hit by the student when I was 74 years old I had not had a concussion or any heart problems. Also, I did not have to walk with a cane before I was hit because I have loss my balance because I was hit in the head.

I am not the only teacher that has been damaged by a violent act by a student in a school which can not control weapons brought into the school since no screening was available for screening of weapons in the school which I was teaching at the time. See the Reasons to grant the Writ for Certiorari which I presented a news article in

another school which I had taught as a substitute teacher, Deland Middle School.

Also, in the legal literature it appears that school administrators attempt to create a controversy that are lies about a teacher so that the lower federal court can pretend a complaint is a "shotgun pleading" when in reality the teacher is telling the story as it happened.

This Mississippi case has an exception for a substitute teacher who is 74 years old who does not have a tenure contract because apparently the school does not like to give contracts to teachers 74 years old.

See Solomon v. Walgreen Co., 975 F. 2d 1086.1089. (5th Cir.) 1992.

> **"In the absence of employment contract, the Mississippi Supreme Court created two exceptions to this long standing rule on employee could have a cause of action for wrongful termination if he is fired, (1) refuseing to commit an illegal act or (2) or reporting his employer's illegal act."**

The jurisdiction in the federal court comes under 42 U.S.C. Section 1983 as found in Monell v. Department of Social Services of the City of New York. 436 U.S. 658, L. ED. 2d 611, 58 S. Ct. 2018 (1978) which held that local governments, municipals corporations, and school boards (Emphasis added) were "persons" subject to liability under Section 1983.

Also, see Brandon v. Holt, 105 S. Ct. 873 (1985) which held that a suit against a municipal official capacity is tantamount (Emphasis added) to suit against municipality.

the U.S. Constitutional Amendments, Fifth and Fourteenth and 42 U.S.C. Section 1983 because due process as to WRONGFUL TERMINATION was committed by Dr. Margaret A. Smith Superintendent and official of the Volusia County School Board Defendant.

The point is the school superintendent, Dr. Margaret Smith, of the Volusia County School Board who did not investigate the incident terminated Dr. Lampkin-Asam one day after she reported the felony of the student to the sheriff's office and was retaliation to the teacher.

Mississippi law by Appellate Court, Mississippi Supreme Court law is inconsistent concerning a person working on an hourly basis as a substitute teacher being wrongfully terminated without due process of life, liberty, or property as to the Fifth Amendment to U. S. Constitution when the administrator, Assistant Principal of Deltona Middle School, Mr. Mark Corruther, acting as an official of the Volusia County School Board committed a criminal act by covering-up a crime of felony by a 13-old student with a weapon hitting Dr. Lampkin-Asam, a substitute teacher, in the back of her head while she was teaching math at Deltona Middle School under the Control of Volusia County School Board.

Over 70 years old and the substitute teacher is often called on to write lesson plans and teach a vacancy (i.e. a teacher that does not show at the beginning of the year would be a substitute teacher that could teach without lesson plans but has the experience to make the lesson plans in the subject area which I had completed two weeks before I was hit in the head. I wrote the lesson plans for the marine biology class that I had to teach without even knowing the exact subject before I had to teach the class because of my biology background. I had a Rank I in biology and chemistry from the Department of Education in Florida for a number of years before I was 70 years old.

I taught for the Dade County Schools for a number of years at the Homestead Air Force on both the high school and college level since I taught a number of different science courses for the University of Tampa extension

including biology while I was also doing cancer research on lymphomas which was my life's work which was discussed in the Petition for Writ of Certiorari. I have established a non-profit cancer institute, Lampkin-Asam Cancer Institute, which I hope to receive money to build before I die, and I was working at the Volusia County School Board as a substitute teacher so I could finance the books on future cancer projects that should be completed to synthesize a lymphoma vaccine which I have worked on for a number of years. See the Petition Writ for Certiorari. I hope to hire a team of basic science in oncology and then work with M.D.'s to bring the basic science to applied science to help save people from dying like has been done in animals. I have written 31 publications in medical journals and as books also as mentioned.

I do not need the Volusia County School Board to prevent me from obtaining Cancer Grants because research on DNA and RNA and Vaccines are expensive and the answer to a cancer vaccine is the study of mutant proteins. I have met all the elements of Stigma plus of the Volusia County School Board writing false information as directly quoted in the Petition for Writ of Certiorari, and there was no "Shotgun pleading" because all I did was write what happened with the lying of the Volusia County School Board trying to cover up the violence by students. I need to have my name cleared up because until I was hit in the head I had an unblemished record as a teacher, (See Appendix E, the Orlando Sentinel).

The Volusia County School Board should be forced to remove the false information because I was hit in the head from my Personnel File so that I am not blocked from other cancer projects that I may undertake.

The new evidence was proved by the Volusia County School Board producing Dr. Lampkin-Asam's Personnel after approximately 3 years since the incident, which had the date of 9/15/05 as the date of termination as a substitute teacher who was applying for her retirement to have something to eat.

The termination of Dr. Lampkin-Asam because she was hit in the head by a student after she reported the incident to the sheriff's office and terminating her the next day has the appearance of retaliation. She reported the incident since the Assistant Principal, Mr. Corruthers was trying to cover- up the felony of a student by writing a false, defamatory, libelous and phantom teacher evaluation when he never came into her room to make any evaluation. The fax that was sent to the Personnel office

was sent on the same day the incident was reported on August 25, 2005 since no one of authority was available to report the incident on August 24, 2005 since she had to walk slow from the far- out portable where she was teaching math at the end of the school day.

See the sheriff record 05 31030 filed 9/14/05 in Deland Florida.

Dr. Gebel, a Defendant in the instant case, changed my medical record from 55 disabled to 0% for full duty when at the time I did not know I was already terminated since a cardiologist had not signed for me to return to duty since I had a 50% heart block as a result of the incident.

I did not know officially I had been terminated until I received the said document from the Personnel file showing the date to be 9/15/05. Therefore, this is new evidence that I was officially terminated as a substitute teacher On 9/15/05.

The false statements in Exhibit I1a are:. "Unsatisfactory performance of duties" for 4 days when incident happened the 3rd day and the 4th day Dr. Lampkin-Asam was transferred to the 7th grade.

The School should have to pay me forward for the next 10 years as well as from August 25, 2005 at the rate of a Ph.D. as a lump sum.

There is no excuse for the school not providing due process when firing a teacher because she was hit in the head by a student.

A teacher should not be put out of business when she is still capable of doing cancer research,

FEDERAL STATUTES

42 U.S.C. Section 1983

"Every person who, under color of any stature, ordinance regulation, custom, usuage, or any State or Territory . Subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

See Motes v. Myers, 810 F. 2d 855,

> "Civil rights plaintiff must establish both deprivation of right secured by the United States Constitution or federal laws and by defendant under color of state laws. 42 U.S.C. Section 1983."

See Friedlander v. Nims, 755 F. 2d 810 which states,

> "A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that plaintiff can prove no set of facts in support of his claims which would entitled him to relief. Fed. Rules Civ. Proc. Rule 12(b)6 28 U.S.C.A.

Gilder-Lucas v. Elmore Count Board of Educ. 399 F. Supp. 2d 1267, 2005, WL 302824, 205 Ed. Law Rep., M.D. Ala., October 2005.

"To establish that a due process was protected liberty interests was violated by stigmatizing charges made as part of public employee's nonrenewal of employment, employee must show: (1) a false statement (2) of stigmatizing nature (3) attending government employee's discharge (4) was made public [published by school when Larry Lewis made cc: of false letter by Mr. Corruthers (Exhibit I1a) to Dr. Asam's Personnel file and then the press reviewed the public record and wrote Appendix E] (5) by the governmental Employer (6) without a meaningful..."

See Federico v. Board of Educ. Of Schools of Tarrytowns, 955 F.Supp. 1997 WL, 37409, 116 Ed. Law Rep. 969, S>.D.N.Y., January 23, 1997.

On Section 1983 claim based on due process with respect to allegedly defamatory statements of school officials, Plaintiff, teacher is required to prove: that officials published stigmatizing information which is at least arguably false; and as a result of stigma, he has been foreclosed from range of other employment opportunities. U.S.C.A. Const. Amend. 14 42 ...'

Mr. Corruthers abused Amendment One (1) to the U.S. Constititution by fabricating a teacher's evaluation that he knew would become a public record (F.S. 119.011(1) repugnant and infringing on Dr. Lampkin-Asam constitutional rights under the First, Fifth and Fourteenth Amendments to the U.S. Constitution that would stigmatize Dr. Lampkin-Asam severely for employment any place [SigmsaPlus elements were met, without
even investigating the incident since he wrote the false phantom teacher's evaluation the same day he was noticed of the incident.

FLORIDA STATUTE 119.011(1)[2]

> "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business of any agency."

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[2] Dade County School Board v. Miami Herald Pub. Co. 443 So. 2d 268 (DCA of Fla. 3rd Dist., 1983) was cited showing personnel file of teacher is a public record.

The Supreme Court of the United States should review the instant case and grant the Petition for Rehearing. A Merit Brief should be requested.

A new document from an expert neurologist has also been received showing permanent damages to my head after being hit by a student who was just released from Detention.

CONCLUSION

Petition for Rehearing should be granted according to Federal Law presented, and Merits Brief requested to be written by me. In the alternative, the case should be remanded to the lower federal for a jury trial on the disputed issues.

Respectfully submitted,

Julia McCain Lampkin-Asam

Date

10/29/08

Julia McCain Lampkin-Asam, Ph.D.,J.D., Pro Se Petitioner
Substitute teacher and Cancer Scientist
3240 Tealwood Terrace
Deltona, Florida 32725
(386) 532 6270

Certification

Pursuant to Rule 44.2 this petition for rehearing is limited to intervening circumstances of a substantial or a controlling or to other substantial grounds not previously presented. It is restricted to grounds of Rule 44.2 not previously presented and that is presented in good faith and not for delay of the court.

Sincerely

Julia McCain Lampkin-Asam

Julia McCain Lampkin-Asam, Ph.D.,J.D.

DISTRIBUTION REQUEST FORM **PLAN #91087**
SCHOOL BOARD OF VOLUSIA COUNTY, FLORIDA

INSTRUCTIONS
This form must be completed by the employee participant and returned to the Employer. The Employer will sign this form and forward it to Bancor Administrative Services for processing.

Distributions are made immediately after the monthly valuation following the date your forms are returned.

An IRS Form 1099-R will be sent to you for tax purposes before the end of January of the year following the year of your distribution.

EMPLOYEE INFORMATION (Must be completed)

NAME: Julia L. Asam TELEPHONE: (386) 532 6270

ADDRESS: 3240 Teakwood Terrace

CITY, STATE, ZIP CODE: Daltona, Florida 32725

DATE OF BIRTH: 2/27/1931 SOCIAL SECURITY #: 007 34 5386

REASON FOR DISTRIBUTION (Mark one)

_____Termination of employment or eligibility _____Retirement __x__Disability _____Death*
*In the event of the participant's death, provide beneficiary's social Security Number and include a certified death certificate.

FORM OF DISTRIBUTION (Mark one)

*** READ THE ATTACHED IRS SPECIAL TAX NOTICE BEFORE SELECTING AN OPTION ***

__x__ **DISTRIBUTION IN CASH** (distribution is taxable in the year it is paid - 20% mandatory withholding will be sent to the IRS)

_____ **DIRECT ROLLOVER TO A TRADITIONAL IRA** (distribution is not currently taxable - provide IRA account number, custodian's name and address on an attached page)Please Note: Funds may not be rolled over to a Roth IRA.

_____ **DIRECT ROLLOVER TO AN ELIGIBLE QUALIFIED RETIREMENT PLAN** (distribution is not currently taxable - provide plan name, plan type, account number, trustee's name and address on an attached page).

SIGNATURE OF PARTICIPANT (Required)

Julia L. Asam
(Signature of Participant) 2/26/2007 (Date)

TO BE COMPLETED BY THE EMPLOYER

DATE OF TERMINATION OF ELIGIBILITY: 9-15-05

(Signature for Employer) 2-26-07 (Date)

SCHOOL BOARD OF VOLUSIA COUNTY - Personnel Services
P.O. BOX 2118 DELAND, FL 32721-2118

APPENDIX A

HEADACHE INSTITUTE
1936 Lee Road, Suite 137
Winter Park, FL 32789-7201
407-644-3737

Marc Irwin Sharfman, M.D., P.A.
Tax I.D. #59-3164891

Patient Name _____ Date _____

Anticipated Coverage _____ Current Balance on Account $ _____

Misc. Information _____ Amount to Collect Today $ _____

LOP ON FILE ___ YES ___ NO
Biofeedback visit # _____ of _____ Rx
Massage therapy visit # _____ of _____ Rx

___ 90801 (then) 90806 or 90876 # ____ of ____ Rx

[redacted]

Comments _____ 8-24-05

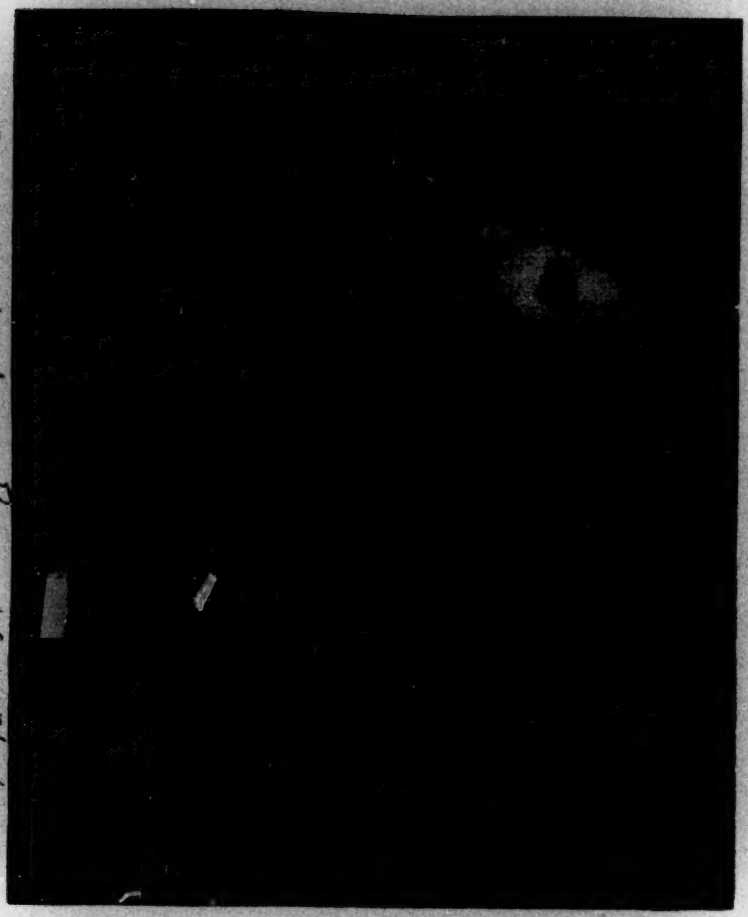
Physician Signature _____ Follow Up Date _____

Today's Charges	
Today's Payment	
Cash/Check #	
Paid on Acct	

APPENDIX B

Picture 1 D. Julia M. Lampkin - Asam. - 3 days after hit (8/27/05) on back of head on 8/24/05

APPENDIX C



D. Julie M. Lamplkin-Adam / Picture before 8/24/05
No Swelling of eyes

Julie McCain Lamplkin-Adam, Ph.D., J.D. (formerly Lamplkin-Gibbard)

BORN FEBRUARY 27, 193[illegible]

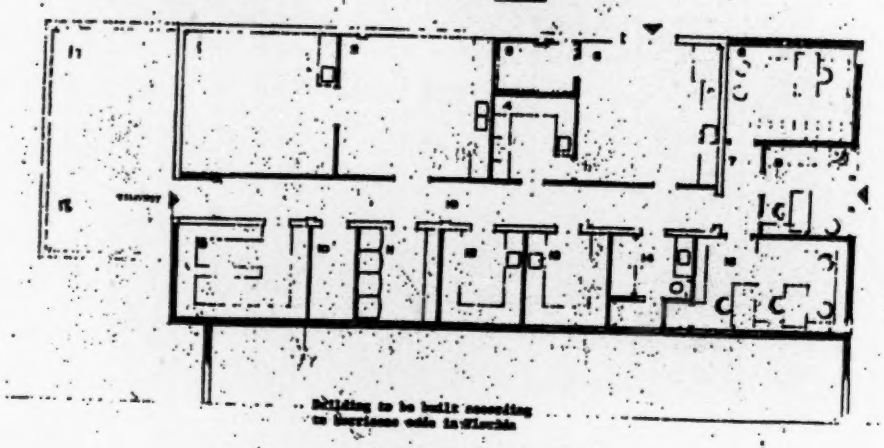
Picture 5

APPENDIX D

Picture 1 - May 23, 2006 lost her balance before picked up by ambulance to Central Florida Regional Hospital. Face hit concrete.

APPENDIX E

1 Biochemistry, RNA, DNA, Proteins, Automated sequencing machines Electrophoresis, Chromatography Proteins: Altered v. normal and cancerous
2 Small animals: Model cancer development
3 Storage
4 Cancer transplant room
5 Computers' room for data Conference room
6 Office
7 Security guard
8 Reception room
9 Vaccine Development Cancer Genetics of P1798 Model Lymphomas (S and R)
10 Chemical storage
11 Virology room; RNA and DNA
12 Human cancer tissue cultures Stem cells
13 Microbiology
14 Bathroom with shower and Storage
15 Office
16 Hall
17 Large Animals
18 Cage Washing Machine for Animals



LAMPKIN-ASAM CANCER INSTITUTE, INC.

FLOOR PLAN

APPENDIX F